United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

## HOUSE OF REPRESENTATIVES—*Tuesday, March 2, 1982*

The House met at 12 o'clock noon.

The Reverend James P. Archibald, Good Shepherd United Methodist Church, Silver Spring, Md., offered the following prayer:

Almighty God, who has challenged humankind to govern themselves responsibly, help those who have been elected to this sacred trust. Be a source of comfort to each Member of Congress, enabling them to deal with the stresses that are always with them. Be in their homes and with their families. Enable them to patiently persevere when the highest ideals appear to be impractical. Guide their efforts to negotiate when solutions are not readily available.

Lift before all of us the sacredness of every person; those who are Americans, as well as all others who are in the human family. Make us always mindful of the importance of striving for peace even when our selfish desires are not satisfied. Make Your will, rather than our own might, our highest priority. May the deliberations of this body reflect Your will, O Lord, our Creator and Sustainer. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 15, not voting 77, as follows:

[Roll No. 9]

YEAS—342

| | | |
|---|---|---|
| Addabbo | Daniel, Dan | Guarini |
| Albosta | Daniel, R. W. | Gunderson |
| Alexander | Danielson | Hall (OH) |
| Anderson | Dannemeyer | Hall, Sam |
| Annunzio | Daschle | Hamilton |
| Anthony | Daub | Hammerschmidt |
| Archer | de la Garza | Hansen (ID) |
| Ashbrook | Deckard | Hansen (UT) |
| Aspin | Dicks | Hatcher |
| Atkinson | Dingell | Hawkins |
| AuCoin | Dixon | Heckler |
| Badham | Donnelly | Hefner |
| Bafalis | Dorgan | Heftel |
| Bailey (MO) | Dougherty | Hendon |
| Bailey (PA) | Dowdy | Hertel |
| Barnard | Dreier | Hightower |
| Barnes | Duncan | Hiler |
| Beard | Dunn | Hillis |
| Bedell | Dwyer | Holland |
| Beilenson | Dymally | Hollenbeck |
| Benedict | Dyson | Holt |
| Benjamin | Eckart | Hopkins |
| Bennett | Edgar | Horton |
| Bereuter | Edwards (AL) | Howard |
| Bevill | Edwards (CA) | Hoyer |
| Bingham | Emerson | Hubbard |
| Blanchard | Emery | Huckaby |
| Bliley | English | Hughes |
| Boggs | Ertel | Hunter |
| Boland | Evans (DE) | Hyde |
| Bolling | Evans (GA) | Ireland |
| Boner | Evans (IN) | Jeffords |
| Bonior | Fazio | Jeffries |
| Bonker | Fenwick | Jenkins |
| Bouquard | Ferraro | Johnston |
| Bowen | Fiedler | Jones (TN) |
| Breaux | Fields | Kastenmeier |
| Brinkley | Findley | Kazen |
| Brodhead | Fithian | Kemp |
| Broomfield | Flippo | Kildee |
| Brown (CA) | Florio | Kindness |
| Brown (CO) | Foley | Kogovsek |
| Brown (OH) | Ford (TN) | Kramer |
| Broyhill | Fountain | LaFalce |
| Byron | Frank | Lagomarsino |
| Carman | Frenzel | Lantos |
| Carney | Frost | Latta |
| Chappell | Fuqua | Leach |
| Chappie | Garcia | Leath |
| Clinger | Gaydos | Lehman |
| Coats | Gephardt | Lent |
| Coleman | Gibbons | Levitas |
| Collins (TX) | Gilman | Lewis |
| Conable | Gingrich | Livingston |
| Conte | Ginn | Loeffler |
| Corcoran | Glickman | Lott |
| Courter | Gonzalez | Lowery (CA) |
| Coyne, James | Gore | Lujan |
| Coyne, William | Gradison | Luken |
| Craig | Gramm | Lundine |
| Crane, Philip | Gray | Lungren |
| Crockett | Green | Madigan |
| D'Amours | Grisham | Markey |
| Marlenee | Perkins | Snowe |
| Marriott | Petri | Snyder |
| Martin (IL) | Peyser | Solarz |
| Martin (NC) | Pickle | Solomon |
| Martin (NY) | Porter | Spence |
| Matsui | Price | Stangeland |
| Mavroules | Pritchard | Stanton |
| Mazzoli | Quillen | Stark |
| McClory | Rahall | Staton |
| McCloskey | Railsback | Stenholm |
| McCollum | Rangel | Stokes |
| McCurdy | Ratchford | Stratton |
| McDonald | Regula | Studds |
| McEwen | Reuss | Stump |
| McGrath | Rhodes | Tauke |
| McKinney | Richmond | Tauzin |
| Mica | Ritter | Taylor |
| Mikulski | Roberts (KS) | Traxler |
| Miller (CA) | Roberts (SD) | Trible |
| Mineta | Robinson | Udall |
| Minish | Roe | Vander Jagt |
| Mitchell (NY) | Roemer | Vento |
| Moakley | Rogers | Volkmer |
| Molinari | Rose | Walgren |
| Mollohan | Rosenthal | Wampler |
| Montgomery | Roth | Washington |
| Moore | Roukema | Watkins |
| Moorhead | Rousselot | Waxman |
| Morrison | Rudd | Weaver |
| Motti | Russo | Weber (OH) |
| Murphy | Sawyer | Weiss |
| Myers | Schneider | White |
| Napier | Schulze | Whitehurst |
| Natcher | Schumer | Whitley |
| Neal | Sensenbrenner | Whittaker |
| Nelligan | Shamansky | Whitten |
| Nelson | Shannon | Williams (MT) |
| Nichols | Sharp | Williams (OH) |
| Nowak | Shaw | Winn |
| O'Brien | Shelby | Wirth |
| Oakar | Shumway | Wolf |
| Oberstar | Shuster | Wolpe |
| Ottinger | Siljander | Wortley |
| Panetta | Simon | Wright |
| Parris | Skeen | Wyden |
| Pashayan | Smith (AL) | Wylie |
| Patman | Smith (IA) | Yatron |
| Patterson | Smith (NE) | Young (FL) |
| Paul | Smith (NJ) | Young (MO) |
| Pease | Smith (OR) | Zablocki |
| Pepper | Smith (PA) | Zeferetti |

NAYS—15

| | | |
|---|---|---|
| Butler | Harkin | Sabo |
| Coughlin | Jacobs | Schroeder |
| Dickinson | LeBoutillier | Walker |
| Gejdenson | Miller (OH) | Weber (MN) |
| Goodling | Mitchell (MD) | Yates |

NOT VOTING—77

| | | |
|---|---|---|
| Akaka | Cheney | DeNardis |
| Andrews | Chisholm | Derrick |
| Applegate | Clausen | Derwinski |
| Bethune | Clay | Dornan |
| Biaggi | Coelho | Downey |
| Brooks | Collins (IL) | Early |
| Burgener | Conyers | Edwards (OK) |
| Burton, John | Crane, Daniel | Erdahl |
| Burton, Phillip | Davis | Erlenborn |
| Campbell | Dellums | Evans (IA) |

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

| | | |
|---|---|---|
| Fary | Kennelly | Rinaldo |
| Fascell | Lee | Rodino |
| Fish | Leland | Rostenkowski |
| Foglietta | Long (LA) | Roybal |
| Ford (MI) | Long (MD) | Santini |
| Forsythe | Lowry (WA) | Savage |
| Fowler | Marks | Scheuer |
| Goldwater | Mattox | Seiberling |
| Gregg | McDade | Skelton |
| Hagedorn | McHugh | St Germain |
| Hall, Ralph | Michel | Swift |
| Hance | Moffett | Synar |
| Hartnett | Murtha | Thomas |
| Hutto | Obey | Wilson |
| Jones (NC) | Oxley | Young (AK) |
| Jones (OK) | Pursell | |

□ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

## PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

## REMEDIOS R. ALCUDIA, CHRISTOPHER, EZRA, VERMILLION, AND PERISTELLO ALCUDIA

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## LASZLO REVESZ

The Clerk called the bill (H.R. 1352) for the relief of Laszlo Revesz.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin.

There was no objection.

## THE REVEREND JAMES P. ARCHIBALD

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, it is my privilege to welcome to the Chamber today Rev. Jim Archibald, who is the pastor of the Good Shepherd United Methodist Church in Silver Spring, Md. Reverend Archibald came to Silver Spring from the Capitol Hill Methodist Church, where my wife and I had the good fortune of coming to know him here. We frequently go out to Silver Spring because of the great message that he gives, in our opinion, for us out there.

I believe that we are most fortunate in the Washington area to have a pastor of this quality and this capability. My wife and I have come to know both Jim and his wife, LaVerne, and it is a real privilege and pleasure to have him give the prayer here before this body today.

I join my colleagues in welcoming him.

## A LETTER FROM THE ALAMO

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, I have asked unanimous consent that I may address the House for 1 minute and that in so doing I may read the immortal letter of William Barret Travis written from the Alamo.

Since this is the 2d of March, the date on which Texas declared its independence from Mexico, I want to read to you one of the great letters of all time, written by William Barret Travis from the beseiged Alamo:

To the people of Texas and all Americans in the world—

I am besieged, by a thousand or more of the Mexicans under Santa Ana—I have sustained continual bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the Fort is taken. I have answered the demand with a cannon shot and our flag still waves proudly from the walls. I shall never surrender or retreat. Then, I call on you in the name of liberty, of patriotism and everything dear to the American character, to come to our aid, with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country—victory or death.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3269, MALT BEVERAGE INTERBRAND COMPETITION ACT

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor from H.R. 3269, the Malt Beverage Interbrand Competition Act.

The SPEAKER pro tempore (Mr. MINISH). Is there objection to the request of the gentleman from New York?

There was no objection.

## STUDENTS WIN ON STUDENT AID

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, yesterday we had over 5,000 young college students, both graduate and undergraduate students, here in Washington. They were not here to burn flags or to storm buildings. They were here to state their case quite simply for the need for the continued aid for student education in the United States.

It is hard to put into words the feelings I had about them, Mr. Speaker. In a nutshell, they were tremendous. They were great young people whose parents could really be proud of the way they acted, the way they conducted themselves, and the great knowledge they had on the subject matter.

Mr. Speaker, after hearing a number of my Republican colleagues who yesterday stepped forward to say that they would no longer support any cuts in the student aid program and knowing where our Democratic colleagues are, these students have won the battle, and I am convinced that student aid programs will not only survive, but they will remain at least at the same levels and, hopefully, next year in 1983 get back to where they belong.

## STRONG CONGRESSIONAL ACTION NEEDED ON EL SALVADOR

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, today the House has before it the opportunity to take a historical action, a long overdue initiative that shows the only way to end the Salvadoran tragedy, by passing House Concurrent Resolution 226. In addition to that action, the Congress will have to act decisively, denying military and other aid to the discredited Salvadoran regime, so as to force the junta to enter into negotiations with the broad spectrum of opposition parties.

It is profoundly disturbing to have to conclude, after considered judgment, that this administration is totally committed to a military solution in El Salvador and is not open to any suggestion that other alternatives exist. It is disturbing because this policy condemns thousands more to suffering and death, until the day when a political settlement of necessity takes hold. It is also disturbing because it entirely disregards the loud outcry heard from our own citizens, who have flooded newspapers, talk shows, and the Congress with their opposition to the current extreme hardline policy in Central America.

This administration displays little if any understanding and concern for the real causes of the ongoing civil strife. It is beyond comprehension how anyone can label as "Soviet inspired Marxists" the bulk of a people who oppose a terrorizing regime in a country where malnutrition runs at 60 percent, illiteracy is rampant, inflation is

soaring, and the economy is in ruins. Many observers have noted that the people who oppose the junta in El Salvador would be considered straight middle-of-the-roaders in the United States.

By painting itself into a tight corner, the administration has violated one of the fundamental tenets of diplomacy, which is to leave oneself options. A potentially constructive initiative, the Caribbean Basin package, was recklessly delivered wrapped in a high-pitched belligerent diatribe. This stands in stark contrast with the Mexican proposal for mediation, offered only a few days earlier. The much-praised and hopeful Mexican initiative went entirely unmentioned.

I am concerned that my colleagues will fail to act decisively, in the expectation that the elections of March 28 will offer some new way out of the present stalemate. This is hoping against hope, adding 1 more month of surely intensified violence to that already pained country. I will not elaborate on the inadequacies of the elections, a subject of extensive discussions in Congress and in the media in recent times. One must recognize, however, that the elections will determine only which of six ultra right wing parties, and a seventh discredited and decimated "centrist" party represented by President Duarte, will take the helm if the military allows. To the extent that the military now allow Duarte a completely paralyzed presidency, it is clear that the elections, as proposed, are a part of a military, not a political, solution to the problem. The bulk of political thought in that country is not being allowed to participate.

It is thus important for the Congress not to allow the Salvadoran elections to be passed off to the American public as the kind of participatory democratic exercise with which we are familiar. We all wish we could close our eyes and have the elections turn out fairly democratic, with some international credibility, so that we, the ultimately responsible public officials, would not have to confront the ugly reality. This will not come to pass. We will have to work actively and decisively if continued tragedy is to be avoided.

It is a dangerous state of affairs when an administration carries out a rigid, inflexible foreign policy that meets with strong opposition from within the Nation and the Congress, not to mention our allies overseas. I have been in the Congress long enough to have seen this before, and I hope my colleagues can draw from the lessons of history. It is not only because we run the risk of another quagmire and loss to the United States that we should avoid a military posture in El Salvador. It is because what is taking place there is morally reprehensible and untenable in the long run. People are not expendable for the sake of someone's geopolitical world view.

I urge my colleagues to vote for this resolution, as a first step in what I hope would be a strong congressional role in reversing present policy.

## TEXAS INDEPENDENCE DAY

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, today I also have the envious delight of reminding the House that today is March 2, Texas Independence Day, as so eloquently described by our majority leader.

Knowing full well, Mr. Speaker, that at least half the House wishes they were Texans, and the other half does not know any better than not to, I have endeavored to bring a little bit of Texas to the House. If anyone here is so unfortunate as to never have savored Texas chili, then I suggest they wait only long enough to hear the end of my remarks before hastening to the House Capitol dining room to get a bowl of Texas red hot chili. This is venison chili from the central Texas area. Those of you who are familiar with venison chili probably scented it this morning when you woke up, because this is one of the best batches we have ever whipped together; so you chili veterans, I know, will want to leave immediately, go below and get your batch of Wick Fowler's Texas venison chili which I am serving for the 14th time in a row.

Congratulations to all of you. May the Lord help you!

□ 1230

## BILL ALEXANDER OF ARKANSAS LISTENS "TO THE FOLKS BACK HOME"

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, the President has repeatedly challenged Members of Congress to listen "to the folks back home" before making our decisions about his budget proposals. I am listening and I am reading their letters, and this is what I am finding.

In a letter printed in the Arkansas Gazette on February 15, written by a constituent of mine in Van Buren County:

> It's beginning to look more and more like the people were sold a bill of goods in the last election, which they may long regret.

In a letter to me from Marked Tree, Ark.:

> Mr. Reagan's words put up or shut up is a challenge to the average American citizen to speak up against Mr. Reagan's bullying tactics and determination to subject the working class American to the whims of himself and his rich friends.

A year ago people in Arkansas were angry but confident that Reaganomics would revive the economy as President Reagan promised. Today—with Arkansas unemployment standing at 12.1 percent—the highest rate in the history of our State—our people are telling me they are afraid of the record deficits Mr. Reagan's economic policy has produced and are only faintly hopeful that Reaganomics will end the recession it has created.

The letters from which I have quoted are not isolated cases. They are indicative of the conspicuous difference in the attitudes of my constituents that I am observing in 1982 compared to the same period in 1981.

The people I am hearing from are the youngsters in elementary school worried about their future education.

They are the farmers pleading for help to save their livelihood from the threat of the Reagan administration's high interest rate, tight farm credit, and low commodity price policies.

They are the schoolteacher and her 70-year-old storekeeper husband, who still works a 10-hour day, and who together paid for the first 4 years of their son's college education and are now seeing the family dream of his becoming a doctor shattered by the Reagan administration's student financial assistance policies.

And, I am hearing from the business people who are worrying about what the Reagan administration's high interest rate policies are doing to their businesses and about the growing threat of bankruptcy that is already overtaking businesses across the Nation at an increasingly rapid rate.

Yesterday's announcement that the leading economic indicators were down for the ninth straight month in January adds to the current worries of our people. These are the indicators that normally signal, 2 months in advance, significant turns in the Nation's economy. The signal we are getting now tells us that the end of the recession is not yet in sight. And, administration spokesmen admitted yesterday that our national unemployment rate could reach 10 percent, the highest in 40 years, before it begins to come down again.

This news about the economic indicators strengthens my belief, the belief of many of my constituents, and of many of our colleagues that if this administration continues to refuse to take action to help bring about an end to the recession, the Congress will have to work out a bipartisan solution alone. Efforts are underway in that direction and we must work to strengthen them.

## PROHIBIT ACCESS FEES ON HUNTERS USING FEDERAL LANDS AND WATERS

Mr. VENTO. Mr. Speaker, during the last week of February, the Republican administration through the Secretaries of Interior, Agriculture, and Army submitted proposed legislation which would have set up broad new categories for the imposition of user fees for the use of public lands and national parks. Of particular concern was section 3(k), that would have authorized the appropriate Secretary to require an admission permit for the occupancy and use of Federal lands for hunting and fishing.

This new section, which really targets hunters and fishermen, would have meant the breaking of new ground in terms of Federal charges for sportsmen. Although the administration subsequently withdrew this legislation, it was only because of strong negative reactions by Members of Congress. The administration's intent remains clear. While claiming to support the prohibition of hunting and fishing licenses, the administration is ready to reinterpret the law and extend fees on hunters' and fishermen's access to Federal lands or waters, in effect proposing a de facto license procedure.

To counter such an ill-conceived proposal, I am today introducing legislation to prohibit the imposition of access fees for hunters and fishermen using Federal lands or waters. This bill retains the existing provisions in law where a fee is specifically authorized.

I urge my colleagues' support for this legislation.

H.R. 5691

A bill to amend the Act of September 3, 1964 (78 Stat. 987) and for other purposes

*Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection 4(g) of the Act of September 3, 1964 (78 Stat. 987) is amended by inserting at the end thereof:

"Notwithstanding any other provision of law, no agency, department, board, or commission of the United States shall charge any fee for any use of Federal lands or waters under their jurisdiction related to recreational activities associated with the pursuit of or taking of fish and wildlife."

## THE $120 BILLION VODKA DEFICIT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, recently several Republican Senators made a pilgrimage to the White House to express concern over the projected $120 billion deficit. According to one of the pilgrims, Reagan deflected their consternation with an anecdote about someone buying vodka with food stamps.

I have an anecdote also. There was once this President who spent his political capital on a $120 billion deficit.

We need an agenda, not anecdotes. I have submitted an alternative defense budget. I hope we all roll up our shirt sleeves and work on the budget agenda rather than tell more anecdotes.

At this point in the RECORD I include an article from the Washington Post.

[From the Washington Post, Mar. 2, 1982]

SENATOR FINDS PRESIDENT ON "DIFFERENT TRACK"

A senior Republican senator says he and other GOP leaders sometimes are dismayed in their meetings with President Reagan because he responds to their concerns "on a totally different track" from the issue at hand.

For example, when the Senate budget chairman recently expressed consternation with a deficit exceeding $100 billion, Reagan told an anecdote about someone buying vodka with food stamps, according to Bob Packwood, who heads the Senate Republican Campaign Committee.

Reagan concluded the story with "That's what's wrong," said Packwood. "And we just shake our heads," the senator added.

Packwood attributed the problem to what he termed Reagan's "idealized concept of America," that is basically white, male and Protestant. And that view, the Oregon senator said, is destroying the GOP's appeal among blacks, Hispanics and Jews.

He said he feared that Reagan's positions on abortion, the equal rights amendment and the handling of tax exemptions for schools that discriminate by race will cause lasting damage to the party.

"The Republican Party has just about written off those women who work for wages in the marketplace," Packwood said. "We are losing them in droves. You cannot write them off and the blacks off and the Hispanics off and the Jews off and assume you're going to build a party on white Anglo-Saxon males over 40.

"There aren't enough of us left," he said.

"Pete Domenici [chairman of the Senate Budget Committee] says we've got a $120 billion deficit coming and the president says, 'You know a person yesterday, a young man went into a grocery store and he had an orange in one hand and a bottle of vodka in the other, and he paid for the orange with food stamps and he took the change and paid for the vodka. That's what's wrong.'

"And we just shake our heads," said Packwood.

Nonetheless, Packwood said he thinks Reagan "still has an amazing popular appeal" and can win reelection overwhelmingly. But that's different from building a majority Republican Party, he said.

## ADMINISTRATION'S PHILOSOPHY ON STUDENT AID HARD TO UNDERSTAND

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I, too, wish to join my other colleagues in welcoming the students here from the many university and college campuses throughout the country to decry the cuts by the administration in student aid for university and college students.

I do not understand the philosophy of this administration in providing for those cuts and at the same time providing over a billion and a half—a billion and a half dollars—for additional foreign aid, including military aid. I do not understand the philosophy of an administration which says that we must send our money overseas and at the same time cut back at home. I believe that this Congress should tell this administration that we need to hold the line on foreign aid. We need to strengthen this country from within first. We need to provide education for our children and our youth.

## LET US IMPROVE CIVIL RIGHTS ENFORCEMENT

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, today I cosponsor a proposal offered by my colleagues HAMILTON FISH, JR., and M. CALDWELL BUTLER, which would reorganize civil rights enforcement mechanism in the executive branch of the Government. I favor any realinement of civil rights enforcement which will help minorities get prompt and efficient enforcement of their civil rights complaints. Under current practice, virtually every department or Government agency has its own civil rights enforcement office. This diversity of enforcement cannot but limit what government can do to protect minorities from civil rights violations.

Moreover, my colleagues' bill would set up mandatory procedures through which civil rights complaints can be handled and justice can be most efficiently and effectively served. My lone reservation with regard to this legislation involves the new standard of "reasonably foreseeable effects" which would attach to some violations of civil rights upon passage of this act. As I understand it, this standard is no more than a "reasonable man" negligence standard, common to tort law. If so, I do not anticipate any real difficulties. If on the other hand, it represents a major expansion of civil rights law into the use of "effects," as isolated from intent, then I will have some problems.

I look forward to seeing the subcommittee record when this legislation, as yet unnumbered, is referred to the Judiciary Subcommittee on Civil and Constitutional Rights, to learning more about the standard of "foreseeable effects" and its application to the caseload of civil rights complaints within the executive branch.

## CONFERENCE REPORT ON S. 1503—STANDBY PETROLEUM ALLOCATION ACT OF 1982

(Mr. CORCORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, if you like bureaucracy, gasoline lines and high prices, approve the conference report on S. 1503, the Standby Petroleum Allocation Act.

Remember how well petroleum price and allocation controls worked during the summer of 1979, and during the Arab oil embargo in 1974? Perhaps the third time will be the charm.

Let us not find out. For once, let us not repeat the mistakes of the past. Let us not get ourselves embroiled once again in the business of regulating our way into shortages and high prices. Please do not think that because this law is labeled the "standby" instead of "emergency" petroleum allocation act that we will not have the same problems we had under the EPAA. A scheme of price and allocation regulations implemented under the authority this act grants to the President could last indefinitely, subject only to a one-House veto every 150 days. Even assuming that the one-House veto provision is constitutionally valid, imagine how difficult it would be for us to decontrol petroleum.

If any further proof were needed, S. 1503 resurrects word-for-word the conflicting end-user priorities contained in section 4(b)(1) of the EPAA. Should S. 1503 be enacted, we will be faced with all these end-users in September when the President's regulations are sent up to lay before Congress for 30 days.

There is nothing "standby" about the problems we will have attempting to satisfy all the firms and individuals who believe they are statutorily entitled to a leg-up on everyone else.

We do not need these headaches.

The country does not need this legislation.

It sends the wrong message to business and consumers—rely on the Federal Government.

I urge you to vote "no" when you are asked to approve the conference report on the Standby Petroleum Allocation Act.

## NUDEL SHOULD BE ALLOWED TO EMIGRATE TO ISRAEL

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, later this month, the Soviet Union is expected to release from internal exile one of the most courageous and inspiring women of our times: Ida Nudel.

As the Member of Congress who "adopted" Ida Nudel's cause, and have called for her release for many years, I am of course heartened that this brave woman's period of intense agony in solitary confinement is about to come to a close.

But for Ida Nudel—whose only crimes against the state were her unshakeable commitment to her Jewish faith and heritage and her compassion in caring for those who had been imprisoned by that state—her release from exile will only be a partial triumph.

The triumph of Ida Nudel will be complete only when she is allowed to realize the goal that has sustained her through her confinement: The freedom to emigrate to Israel, to rejoin her sister, and to practice her faith in peace.

It has been 11 years since Ida Nudel first challenged the Soviet authorities to allow her to leave. She has endured harassment, public abuse, and—for the last 4 years—exile in Siberia.

She has borne all of this with dignity, and her towering faith has inspired all of us who care about the freedom of the human spirit.

It is time that this towering faith of Ida Nudel be redeemed—that her triumph of endurance be transformed into total victory.

It is time for the Soviet Union, at long last, to allow Ida Nudel to return to her spiritual homeland. I ask all my colleagues to join in the effort to insure justice for this woman of courage and faith.

## THE REVEREND VINCENT T. TANZOLA, S.J.

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, it is my sad duty to report to the House the death of a member of my staff, Father Vincent Tanzola, who passed away in my office on February 10.

Father Tanzola was born in New York City on June 30, 1925. He was ordained a priest on September 18, 1948, and entered the Society of Jesus on September 14, 1955. He was a graduate of Ohio State University and received doctorate degrees in sacred theology, law, and Greek and Latin. He was active in the American Pro-Life movement and founded the International Documents Center, which is designed to preserve the world's valuable manuscript collections.

For the past 2½ years, Father Tanzola served on my Washington staff. He was a man of high principle, loyal to this country and its ideals and absolutely dedicated to his fellow workers. He will be deeply missed by all whose lives he touched.

## RADIO STATION WMAL COMMENDED FOR EFFORTS ON BEHALF OF FIGHT AGAINST LEUKEMIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. WOLF. Mr. Speaker, In these economic times when private initiative is especially important to fund needed programs, I would like to commend radio Station WMAL in Washington, D.C., for its outstanding efforts on behalf of the fight against leukemia and its listeners who year after year, respond with totals that are higher than anywhere else in the country.

WMAL's ninth annual Leukemia Radiothon, the weekend of February 27 to 28, brought a record of more than $317,000. WMAL gives up its entire commercial product for this 25-hour period which is devoted exclusively to raising funds for this most worthy cause. The host of the radiothon is Bill Mayhugh who has worked tirelessly on this project since it was launched 9 years ago—a project that has brought more than $1 million for leukemia research in the Washington area.

And aside from those familiar personalities who appear before the microphones, there are many WMAL production and technical staffers who deserve special mention. Along with producer Eileen Griffin, I would like to commend the efforts of Janice Iacona, Maureen Morales, Glenn Gardner, Tony Renaud, Pat Anastasi, Joanie Miller, Donna Harrell, Ed Painter, Ray Shannon, Vickie Hill, Steve Stefany, Larry Krebs, Karen Henry, Carol Highsmith, Marla Bane, Ondine Marquer, David Fox, Linda Cobb, Bonita Bing, Mike Dawson, Linda McQueeney, Pat Ryan, Dianne Earley, Helen Sawyer, Phyllis Larrymore, and Brigid Reed.

Certainly the contribution of the Greater Washington Chapter of the Leukemia Society of America must also be recognized. Executive Director Jim Fitzgerald and his staff provide outstanding support.

Two related efforts played a large role in the success of the project. The Leukemia Casino Night chaired by Pennie Abramson and Michael Epstein raised nearly $102,000 of the total. They were assisted in this effort by the Golden Nugget of Las Vegas and Atlantic City and their personnel—company President Shannon Bybee, his executives and managers, Boone Wayson, Mike Moore, Alan Anderson, and Bob Culton and many other talented employees. In addition, the bartenders of Washington added nearly $48,000 to the radiothon by donating proceeds of the Annual Bartenders Ball chaired by Craig Goodman. About

2,800 people donated to the ball and more than 150 Washington area restaurants and related service organizations and companies contributed to the ball's success.

Finally, I would like to submit the editorial that was broadcast on WMAL the morning after the successful effort. It summarizes the spirit that made this private initiative such an outstanding success.

LEUKEMIA RADIOTHON, MARCH 1 AND 2, 1982

I'm Andy Ockershausen, Executive Vice President of WMAL, Inc., with an AM-63 opinion * * *

For many years, WMAL has been proud to say—"we like to be in Washington, D.C."

We've never been more proud than this weekend when you, our listeners, pledged a record, over 317-thousand dollars to help fight leukemia.

It was our 9th annual Leukemia Radiothon * * * and over those years you've donated more than a million dollars to the Leukemia Society of America.

That money has gone to support research and treatment * * * to help parents whose children are suffering from the disease * * * and to help educate doctors and the public.

Your generosity speaks for itself. On behalf of our Radiothon host Bill Mayhugh, the entire WMAL staff, the Leukemia Society, and the people who will benefit from your gifts * * * thank you.

As Jackie Gleason would say—Washington—"You're the greatest."

## AUTHORIZING SECRETARY OF THE ARMY TO RETURN TO FEDERAL REPUBLIC OF GERMANY CERTAIN WORKS OF ART

Mr. WHITE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4625) to authorize the Secretary of the Army to return to the Federal Republic of Germany certain works of art seized by the U.S. Army at the end of World War II, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 1, line 5, after "of," insert "certain".

Page 2, line 1, after "art." insert "Such committee shall include one member designated by the United States Holocaust Memorial Council (established pursuant to the Act entitled "An Act to establish the United States Memorial Council" (94 Stat. 1547; 36 U.S.C. 1402)).".

Page 2, line 6, strike out "SEC. 2." and insert: (b)

Page 2, lines 8 and 9, strike out "the first section of this Act" and insert "subsection (a)".

Mr. WHITE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. WHITEHURST. Mr. Speaker, reserving the right to object, and I will not object, I want to commend the gentleman for his labors in bringing this legislation to what appears to be a successful conclusion.

Could the gentleman, for the benefit of the House, just explain the slight changes made in the bill when it came back from the Senate?

Mr. WHITE. Mr. Speaker, if the gentleman will yield, I thank him for asking the question.

Mr. Speaker, H.R. 4625, an act to authorize the Secretary of the Army to return to the Federal Republic of Germany certain works of art seized by the U.S. Army at the end of World War II, was amended by the Senate in two instances. One of the amendments was strictly technical in nature and provided that only certain works of art would be returned. The second provided that the committee which will review the art to determine its suitability for return to Germany will include one member designated by the U.S. Holocaust Council.

Both those amendments are acceptable to the Committee on Armed Services. Accordingly, I urge that the House concur in them.

Mr. WHITEHURST. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

□ 1245

## SENSE OF CONGRESS THAT THE PRESIDENT SHOULD PRESS FOR SAFE AND STABLE ENVIRONMENT FOR FREE AND OPEN DEMOCRATIC ELECTIONS IN EL SALVADOR

Mr. BARNES. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 226) expressing the sense of the Congress that the President should press for unconditional discussions among the major political factions in El Salvador in order to guarantee a safe and stable environment for free and open democratic elections.

The Clerk read as follows:

H. Con. Res. 226

Whereas it is necessary for the major political factions in El Salvador to renounce violence in order to promote a free and open electoral process;

Whereas extreme abuses of internationally recognized standards of human rights must be overcome to make it possible for candidates throughout the political spectrum to engage in political activities safely;

Whereas it is important that the constituent assembly elections scheduled for March 1982 be considered valid by all political factions which oppose the policies of the present government in El Salvador;

Whereas it is important that the constitutent assembly elections scheduled for March 1982 be considered valid pursuant to accepted international principles governing elections, including article 21 of the Universal Declaration of Human Rights; and

Whereas the Government of El Salvador has declared its willingness to accept international observers for the elections, which should provide such elections greater acceptance and credibility: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress that the President should press for unconditional discussions among the major political factions in El Salvador in order to guarantee a safe and stable environment for free and open democratic elections.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Maryland (Mr. BARNES) will be recognized for 20 minutes, and the gentleman from New York (Mr. GILMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 226 expresses the sense of Congress that the President should press for unconditional discussions among the major political factions in El Salvador in order to guarantee a safe and stable environment for free and open democratic elections.

The reasons for the resolution are made clear in the whereas clauses, which argue as follows:

First, all political factions in El Salvador should renounce violence in order to promote a free and open electoral process.

Second, human rights abuses must be overcome to make it possible for all candidates to engage in political activities safely.

Third, it is important that the constituent assembly elections scheduled for later this month be considered valid by all political factions, and meet accepted international principles of validity including those enumerated in article 21 of the Universal Declaration of Human Rights.

Fourth, the Government of El Salvador has declared its willingness to accept international observers for the elections.

Mr. Speaker, the elections are in extreme danger. The left has not renounced violence in order to participate in the elections, and the security forces have not curbed human rights abuses so as to make it possible for all candidates to campaign safely. The results of the elections will not be accepted by the left, and charges and countercharges of fraud by the parties that are participating in the elections make it doubtful that the results will be accepted as valid even by those parties. There is even a danger that a coalition of rightwing, antidemocratic parties will win the elections.

I am not one of those who has opposed these elections. I do not have the high hopes that some have that the elections will contribute to ending the war, but I think they are worth a try. But if the elections are to have a positive outcome, it is very important that we try to find ways to improve the climate for the elections, and ways for the democratic left to participate. We have not tried hard enough. The hour is very late, but I think Congress should go on record in favor of at least trying, through discussions among the factions, to create conditions whereby the elections will be meaningful.

Mr. Speaker, House Concurrent Resolution 226 is a clean resolution reflecting actions taken by the Subcommittee on Inter-American Affairs, which I have the honor to chair, and the full Foreign Affairs Committee on the original resolution (H. Con. Res. 197). House Concurrent Resolution 197 was adopted by unanimous voice vote in both the subcommittee and full committee, after all amendments, including those offered by the minority, were accepted. Although the administration has not to my knowledge taken a formal position on the resolution, after it was reported by the subcommittee a high-ranking official of the State Department indicated to me that the resolution reflected the administration's position. Accordingly, I would think this is an essentially noncontroversial measure, and I urge its adoption.

I wish to congratulate the gentleman from Pennsylvania (Mr. YATRON) for his leadership on this issue, and I yield him such time as he may consume to speak on the resolution.

Mr. YATRON. Mr. Speaker, I stand before this House today, greatly concerned and distraught, over the pathetic and volatile state of affairs, in El Salvador. There is a fear spreading throughout the United States that our present policies toward this beleaguered country are bringing us a step closer to military intervention and open armed warfare. I certainly hope this is not the case, but I have not seen any indications that an end to the war is imminent or the continual abuse and murder of innocent people has in the least bit subsided. In fact, it is becoming blatantly clear, that with every passing day, the violence is escalating, destroying the private sector and increasing the already startling death toll in this impoverished Central-American nation.

Mr. Speaker, the purpose of this resolution is to urge the President to press for unconditional discussions between the revolutionaries and the Duarte government in hopes that they can resolve this conflict and establish a peaceful and stable environment for all major political factions to safely participate in the electoral process.

The focus of this resolution is on elections as a political solution. However, unless a concerted effort is made by the Government of El Salvador to lay the foundation for peace prior to elections, the violence will continue and the democratic process will again be subjected to fraud and corruption.

This resolution does not advocate a sharing of power between the guerrillas and the government nor does it seek to give anyone on the negotiating table what they have been trying to achieve on the battlefield. What this resolution does seek to do is to strengthen the hands of the people of El Salvador to determine their own political destiny thereby weakening the radical elements in the El Salvadoran military who are responsible for the repressive policies of the civilian-military junta.

Mr. Speaker, the Reagan administration has had over a year to freely implement its policies in El Salvador and to this end is increasing military assistance to the junta in hopes of achieving a military victory.

We are slowly reaching a point of no return. Clearly, there is a Soviet-Cuban threat in the Western Hemisphere which seeks to establish client states in Central America. However, if we continue with our military policies without exhausting the political alternatives we will be playing into Castro's hands, radicalizing the left against the United States, and precluding any opportunity, to develop a sound economic and strategic relationship with a new government.

President Duarte's policies are being continually undermined by the military leadership in El Salvador exemplifying the control that the rightwing extremists have in the government. By pressing for unconditional discussions we can strengthen President Duarte's efforts to politically resolve this dispute with the leftist opposition forces.

During the past year I have met with various members of the private sector and the academic community as well as active supporters and critics of the present regime in El Salvador.

In every meeting I have had almost everyone claims that their side has the support of the people. Frankly, I have not seen any legitimate independent surveys or polls taken in El Salvador indicating that either side has the popular support they claim. The only way the people of El Salvador can freely exercise their will for the first time in over 50 years is through elections in a safe and nonviolent environment with the broadest possible participation of all parties throughout the political spectrum. The present conditions in El Salvador are not conducive to the electoral process and will therefore accomplish little or nothing in terms of ending the war.

Mr. Speaker, President Duarte has invited the revolutionaries to lay down their arms and participate in elections. This offer was rejected by the diplomatic and political leadership of the guerrillas for a variety of reasons which I may not necessarily support.

However, whether one supports the revolutionaries or not, if they were to unilaterally disarm and enter San Salvador to participate in elections they would be placing their lives in the hands of the army and security forces which could prove to be fatal.

What does the administration stand to lose by pressing for unconditional negotiations? If frank and open discussions among the guerrillas, the Government, and other political factions under international supervision can bring about a consensus as to how this conflict can be fairly resolved, then the administration will have strengthened its bargaining position with a future freely elected Government. The importance of this cannot be overstressed.

If negotiations fail, we will at least be able to expose those elements who do not favor a political solution.

In the final analysis, the warring factions in El Salvador are at a crossroads and must come to a decision as to which path they will follow:

A cease-fire, discussions, and elections; or the continuation of a prolonged military struggle.

The former should be welcomed by a strong commitment by the United States to achieve these objectives.

Mr. Speaker, I believe this resolution identifies the goals which will bring about a safe environment for free and open democratic elections. Only in this way can we truly achieve a just and lasting peace in El Salvador.

Mr. BARNES. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to record my strong support of House Concurrent Resolution 226.

I would first like to call attention to the superb work of the sponsor of the resolution, Mr. YATRON, and the chairman of the Subcommittee on Inter-American Affairs, Mr. BARNES, and the ranking Republican, Mr. GILMAN. They have brought to the floor a resolution which received wide bipartisan support from the members of the Committee on Foreign Affairs. They are to be commended for the extensive efforts which they devoted to this matter and for preparing a clear, responsible statement of congressional policy.

The resolution before us today as our colleague, the chairman of the subcommittee, Mr. BARNES, has outlined, expresses the sense of Congress that the major political factions in El Salvador enter into unconditional discussions in order to guarantee a safe and stable environment for free and open democratic elections.

It is a resolution which is supportive of a major U.S. foreign policy objective toward that beleaguered country—namely, the promotion of a successful and meaningful exercise of the democratic process.

It is a resolution which offers the best hope for an eventual settlement of a tragic conflict and one which I firmly believe merits our bipartisan support.

Mr. Speaker, the recent history of El Salvador is one of bloodshed and violence—and a degree of human suffering which is beyond the comprehension of most Americans. It is my profound hope that the elections which are scheduled for the 28th of this month will prove to be an important milestone toward reducing the level of civil strife and will provide the basis for an eventual peaceful settlement.

For this vital effort to succeed, however, a minimal level of safety and security must be provided to a substantial part of the electorate and this requires movement toward discussion and cooperation among the often bitterly divided political forces in the country. Unless that basic security is provided, in fact, the results may well be of little value.

At the same time, Mr. Speaker, we must recognize that preparations for the forthcoming elections are being carried out under the most difficult of circumstances—as the fighting continues and even escalates on both sides. The Duarte government must be given due credit for making a reasonable effort to obtain the participation of the opposition forces in the election. For instance, it has permitted electronic campaigning by candidates to minimize the physical danger to which they might otherwise be exposed. It has also ruled that political parties allied with the guerrillas may be registered for the election—but still, it should be noted, those opposition groups have not been willing to submit their political programs to the judgment of the Salvadoran people.

Mr. Speaker, it is my fervent wish that the election process in El Salvador will move forward, despite these difficulties, with a minimum of violence and disruption—and that the results will lead to a brighter future for this devastated nation.

In that spirit, I strongly urge my colleagues to vote for the adoption of this resolution.

Mr. GILMAN. I yield myself such time as I may consume.

Mr. Speaker, as the ranking minority member of the Subcommittee on Inter-American Affairs and a cosponsor of this legislation, I have worked closely with its author, the gentleman from Pennsylvania (Mr. YATRON) to help bring this bipartisan initiative to the floor. The intent of this resolution is not to challenge the policies of the Duarte government or the stated administration objectives, but to focus congressional attention on the critical need to strengthen the processes for a free and open election.

Mr. Speaker, by this legislation, we seek to encourage the broadest possible participation in the electoral process in El Salvador by all political factions who are truly dedicated to a peaceful democratic solution to the conflict. In this effort, we sought to underscore the need to renounce violence and human rights abuses from all sources from the right and from the left as being detrimental to a free and open electoral process.

The Government of El Salvador has scheduled elections for a national constitutional assembly to be held on March 28 of this year. This important first step toward a return to democratic government has been strongly supported by the Catholic Church of El Salvador, the major peasant labor organizations, and the private sector. In addition, the members of the Organization of American States voted overwhelmingly to endorse the election and send an official observation team to join those representing the some 60 individual nations invited to participate.

All of us hope and pray that the conflict in El Salvador will end by peaceful means. The best way to accomplish that objective is through the renunciation of violence and full participation in free, fair and open elections. Every effort should be made to include in the electoral process all legitimate political factions who are dedicated to a peaceful democratic solution. House Concurrent Resolution 226 calls for unconditioned discussions in order to guarantee a safe and stable environment for free and open democratic elections.

Accordingly, I urge my colleagues to join us in this effort to support a democratic solution in El Salvador by passing House Concurrent Resolution 226.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. BROOMFIELD), the distinguished ranking minority member of our committee.

Mr. BROOMFIELD. Mr. Speaker, at the outset, I also would like to commend the chairman of the Subcommittee on Inter-American Affairs, the gentleman from Maryland (Mr. BARNES) as well as the ranking minority member, the gentleman from New York (Mr. GILMAN), and certainly the sponsor of this resolution, the gentleman from Pennsylvania (Mr. YATRON), for bringing this resolution to the floor.

I support House Congressional Resolution 226, which expresses the sense of Congress that the President should press for a safe and stable environment for free and open elections in El Salvador. This resolution is easy to support because the President already is doing precisely what the Congress is encouraging him to do.

Our administration has called all along for free and open elections. Our administration has reaffirmed that these elections must be conducted in a safe and stable environment in order to protect the integrity of the electoral system, as well as to protect the lives of those who wish to campaign. I am sure, therefore, that President Reagan will welcome this concurrent resolution which clearly supports his own efforts on behalf of freedom and democracy in El Salvador.

It is noteworthy that all of the moderates and even the rightwing elements in El Salvador have agreed to pursue the electoral process in hopes of ending internal strife. The acting archbishop of El Salvador has backed the election as well as the Pope. The OAS has overwhelmingly endorsed elections in El Salvador and has

agreed to send observers. I understand 19 countries have agreed to send observers to the election. Only the leftwing Communist guerrillas have refused to participate in the election. They have declared that they will do everything possible to disrupt it. It is again obvious that the Cuban-backed guerrillas have no interest in supporting democracy, but only in instilling a Communist dictatorship similar to that existing in Nicaragua as well as Cuba.

I call on my colleagues today to back this resolution which expresses our desire that free and open democratic elections should be conducted in a safe and stable manner in El Salvador.

Support for the resolution is support for both President Reagan's ongoing policy and certainly support for the efforts of the Duarte government to bringing about democracy in Central America.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I support the Yatron resolution (H. Con. Res. 226). It seems to me that this resolution is quite different from so many which have attempted to advance one particular side of the tragic situation in El Salvador or the other. This resolution highlights the fact that there will be constituent assembly elections in El Salvador next month and it underscores the importance that these elections be conducted in a free and fair manner so as to represent truly the will of the people in that tragic country.

It is unfortunate, in my view, that certain of the wording of this resolution falls into the code word category used by one side or another in the El Salvador conflict. The call for unconditional discussions, for example, picks up terminology used frequently by the forces of the extreme left or Marxists elements. Their code word, unconditional, is a smokescreen among other things for their requirement that there be a restructuring of the armed forces of the Government of El Salvador before any final solution to the problem can be negotiated. This, of course, is setting out in advance a condition which can only be completely abhorrent to the other side of the bargaining table.

It strikes me as passing, strange, in conditions of armed conflict, that one side requires the dismantling of the structure of the other side before a final solution to the conflict can come about. But the use of this particular code word and some other terminology subject to manipulation by one side or the other is subordinate to the far more important point with this resolution. That is that the Yatron resolution states the prevailing sentiment in this House in support of an electoral process which the Government of El Salvador is attempting to bring about even under excruciatingly difficult circumstances. From all signs that I have been able to see to date, these elections will be conducted in the best possible manner under the circumstances.

It seems to me that we should applaud this effort on behalf of the Government of El Salvador and it further strikes me that the Yatron resolution does just that. I, therefore, give my support to this effort. Far too many seem inclined to criticize the Government of El Salvador and to overlook the many attempts that it is making to seek a just and a peaceful solution to the terrible problems that plague that country. The elections are one such attempt and I believe that they deserve our wholehearted support.

Mr. BARNES. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I rise in support of House Concurrent Resolution 226, which expresses congressional support for unconditional discussions among parties in El Salvador to facilitate the elections scheduled there for later this month. I do so, however, with concern that this message not be wrongly interpreted to give congressional credence to the Salvadoran electoral process, which as currently framed is unjust and undemocratic.

I first want to commend the gentleman from Maryland (Mr. BARNES), the distinguished chairman of the Subcommittee on Inter-American Affairs, for his concern for this matter and his leadership in getting to the truth of the situation in El Salvador.

The Salvadoran Government, led by President Jose Napoleon Duarte but dominated by rightwing and military forces, does not have the support of the Salvadoran people. In the last few years, the Government has not even been able to carry out the few reforms it had promised, including the highly touted agrarian reforms. Very little redistribution of resources has taken place, and the peasants and campesinos have little more than they did when the current junta came to power.

Instead, the Government relies on military force to suppress and defeat dissent and public opposition. Military or paramilitary rightwing groups have killed as many as 30,000 innocent Salvadorans, and hundreds of thousands of others have fled the country fearing their lives and their security.

Hope for fair and open elections later this month has been dashed. Military rule has made free and full participation impossible, opposition political parties are excluded from official participation in the elections, and sadly the elections could worsen the problems they are intended to ease.

The Reagan administration, meanwhile, has staunchly defended and supported the Salvadoran Government. Already, 77 U.S. military personnel are stationed in El Salvador, and the President has sent more than $80 million in military aid to the Duarte regime. An additional $18 million is being spent to train Salvadoran soldiers at U.S. Army bases.

The administration already has said that it will escalate U.S. aid to El Salvador. The President is asking Congress for $60 million in additional military aid to the Duarte goverment in fiscal 1983. This is a drastic 250-percent increase over the $26 million we authorized for the current fiscal year and does not include discretionary funds available to the President.

The President's certification report on conditions in El Salvador submitted to Congress in Janaury reported more of what the President wished to hear and less of what was actually taking place in El Salvador. Politically motivated murders and torture have increased significantly during the past year. Amnesty International reported that perhaps 12,000 innocent Salvadorans were killed last year.

There is little hope that this climate will allow the Salvadoran people to vote freely on March 28. It is simply too late to neutralize the charged military atmosphere there.

Negotiations, however, are long overdue. The Reagan administration has thus far rejected proposals for talks among major political factions in El Salvador in favor of a military solution. Yet the proper role for the United States in El Salvador is in encouraging negotiations that might lead to peace and might include all segments of that embattled society in shaping a truly democratic society.

For this reason, I support House Concurrent Resolution 226. Its provision urging unconditional talks is a welcome breath of fresh air in a debate that has until now unfortunately focused predominantly on military assistance.

Mr. BARNES. Mr. Speaker, I yield 5 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I do not know how much good this resolution will do, but I support it because it puts us on the side of those who would settle their differences by ballots and not by bullets.

The one consistent plea of Latin Americans, too often ignored, has been the insistent plea for self-determination.

We have no right to dictate the decision of what party governs El Salvador. That is not our choice to make.

We do have both right and obligation, in the interest of a peaceful neighborhood, to insist that the choice

be made by the Salvadoran people themselves—not through the process of force and fear and terror, but through the process of fair and free elections.

The elections which are set for March 28 provide the only present hope—and quite possibly the last hope—of salvaging a democratic political system in this little nation which lies at the pulsating heart of Central America.

The Government now headed by Jose Napoleon Duarte has asserted its complete willingness to abide by the results of those elections. We should do the same. And we should urge with whatever persuasion we possess that all other parties do likewise.

While our entreaties may be wholly ignored by the terrorists, we should implore them by every peaceful means at our command to abandon their boycott of the elections and to encourage rather than discourage their followers to participate.

There can be no intellectual or moral respectability in acts of terror designed to sabotage the election process. And let us make it clear that our call for talks among all parties is in no way aimed at subverting that process and substituting a cynical process of private power brokering behind the people's backs.

In the long and checkered history of our relations with the countries of Latin America, we have been sometimes a source of inspiration and sometimes a source of resentment and fear. On occasions we have smothered them with a bear hug, and for long periods frozen them with the indifference of benign neglect.

When we have backed the electoral process and peaceful local self-determination, we have been consistent with our own ideals and have been worthy of their respect.

When we have not, we have betrayed those ideals and blurred our image.

In the great liberating upheavals of the last century, men like Bolivar and O'Higgins and San Martin and Benito Juarez looked to the United States for their model and their political inspiration.

In 1948 we backed electoral democracy in Costa Rica, and for 23 years it has been a model of progressive democratic government.

In the 1950's, we backed elections in Venezuela, and a democracy has emerged from the ashes of the military oligarchy.

In the 1960's John F. Kennedy withdrew diplomatic recognition from a military junta in Peru and agreed to restore it when free elections were resumed. They were.

In the aftermath of Trujillo's dictatorship in the Dominican Republic, we joined with other members of the OAS to insure free elections, and for the past 16 years a constitutional democracy has survived.

Those have been our finest hours. When we have tried to interfere by overpowering force, or by covert action to destabilize the constituted governments in Chile and Guatamala, we have betrayed our own principles and in the end have betrayed our own credibility.

There are democratic forces emerging in the Caribbean. The tender plants of political freedom in Honduras and Jamaica, in Costa Rica and now in Panama, need to be watered and nourished and encouraged not alone by word but by example.

To that end I support this resolution and the elections of March 28 as the only legitimate and honorable way in which to solve the difficulties and stop the needless bloodshed in El Salvador.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona, (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I would like to commend my friends and colleagues, the gentleman from Pennsylvania (Mr. YATRON) and the gentleman from New York (Mr. GILMAN) for their dedication in attempting to find some sort of help for what is going on with our friends and neighbor to the South.

Mr. Speaker, the resolution that we have before us today urges negotiations between the recognized Government of El Salvador and the Communist-rebel forces who are engaged in a violent struggle even now. The proponents of this resolution portend that before free and democratic elections can take place, the two sides should sit down and resolve their differences to provide a stable environment for these crucial elections. In any way that you look at it, I believe this is putting the cart before the horse.

What this approach would achieve is exactly what the leftist forces and their Communist suppliers in Havana and Moscow are hoping for: That is to give the Communist insurgents the legitimacy which they have been unable to gain for themselves through terroristic coercion and bloodletting.

The violence in El Salvador has made one thing clear: The rebels aim is nothing less than to strap the El Salvadoran people in the bonds of communism and to further the entrenchment of communism in Central America. Recent reports attest that the leftist guerrillas have lost any popular support and would win less than 1 percent of the vote in proper elections.

Our perception of this situation must be crystal clear, and we must be scrutinizing of any action which we take which will send signals down into the area about our resolve to defend against the spread of communism.

The Government of El Salvador has declared its willingness to accept international observers for the scheduled elections to insure that candidates and participants would act in freedom and safety. There is every reason to believe that the will of the people will be expressed in the scheduled elections, and I believe that we should support the Government in proceeding in the fairest manner by carrying out these elections promptly and without putting any unnecessary roadblocks in the way of the elections. This administration is working for that desired result, one desired by all of us, to achieve tranquility and peace in the area. That is what the people of El Salvador want. That is what we all want. To put out any sort of a resolution at this time would simply cloud that issue and give legitimacy to the Communist forces.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Speaker, as a cosponsor to this resolution, I urge my colleagues to give it their full and bipartisan support.

I would like to stress one issue above all, and that is that it is very clear that in the last month or so there has been a defined change in the American public perception of the El Salvador issue, particularly as it relates to the stationing of American advisers in El Salvador. The stationing of those advisers jeopardizes bipartisan support for the administration's foreign policy; it jeopardizes the prospects of the administration's party in the fall election; and it jeopardizes, above all, the influence of the President on a whole spectrum of issues, economic as well as security.

I cannot think of a more propitious time for our advisers to be returned home.

I also cannot think of a more propitious time for the administration to welcome neutral third-party involvement in negotiations. In this regard, the recent initiative of the President of Mexico, Mr. Lopez Portillo, stands out as a beacon of hope.

Earlier this morning, the Secretary of State indicated—and I think very tragically—that the involvement of Mr. Lopez Portillo would only be constructive if there were preconditions to Nicaraguan behavior. Preconditions at this time could not be less meaningful to the situation in El Salvador, and this resolution points to the need for negotiations without conditions. That is exactly what this country needs at this time. I urge Members of my party as well as the majority to give this resolution their fullest support.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 226, which I have joined in sponsoring.

Through years of lack of foresight, faulty analysis, false economies, inadequate planning, and incomplete recognition of the full range of our interests in El Salvador and its region, we

are today faced with a situation which presents us with a narrow range of options, none of them very appealing.

This is sad, frustrating, and irritating. And I'm afraid that in our now somewhat desperate consideration of the problem, too many of us are missing too many important elements in the picture.

Some are turning a blind or callous eye to the atrocities which are undeniably being committed by groups and forces with at least a formal loyalty and responsibility to the Salvadoran Government.

Others fail just as blindly to recognize both the dramatic reforms which the current Government is carrying out, and the progressive nature and democratic credentials, earned in previous elections, of the Government's civilian leaders.

We are also presented with accounts which omit entirely the abuses and outrages, the death and destruction committed by the guerrilla opposition in its effort to take politicial power by force.

Then, there are too many who fail to appreciate adequately the extent to which at least some of those in the struggle believe they are fighting oppression and seek only justice.

And finally, there are also too many who seem to assume that because the guerrillas are fighting against a government with a military component, they are merely seeking to end repression and are backed by the majority of the people. There is no evidence to support this view, and considerable evidence to the contrary.

Amidst all this selective vision, Mr. Speaker, we need to be sure that we are looking as clearly and honestly as we can, and we need to take the most balanced and reasonable position that we can. After all, we have interests to defend in El Salvador. They include our national security interests, our real need to protect against the introduction into this nearby area of forces alien to the region and hostile to us. We also have a basic commitment to economic and social justice, and a fundamental, unshakable interest in the survival and success of democracy—true democracy—wherever possible.

In protecting and pursuing our interests, we will have to expect to apply our resources, including various kinds of assistance, carefully aimed and closely monitored. But not least of the resources we need to apply is some thoughtful, steady, skillful, balanced diplomacy.

In all of this the Congress has a role to play—and that brings me to the resolution before us. It was first introduced last fall by the distinguished gentleman from Pennsylvania, and received extremely careful and thoughtful consideration by both the Subcommittee on Inter-American Affairs and the Committee on Foreign Affairs.

As a result of the commendable initiative of the distinguished gentleman from Pennsylvania and of the unusually thoughtful treatment the resolution received, we are presented today with a resolution of considerable balance, and commendable focus on the essence of the problem.

To begin with, it avoids useless and possibly irritating efforts to place blame, and focuses instead first on the importance of bringing the violence and the abuses of human rights in El Salvador to an end. Mr. Speaker, I see no grounds for objection here.

The resolution then stresses how important it is that the elections scheduled for the end of this month find broad acceptance, both in El Salvador and elsewhere, and that there be some objective standards and judges for measuring their validity. While it is always possible to quibble over words, I see no basis for objecting to the thrust of these provisions.

Finally, the resolution calls on the President "to press for unconditional discussions among the major political factions in El Salvador in order to guarantee a safe and stable environment for free and open democratic elections."

Mr. Speaker, this is important. The goal—our goal—in El Salvador must always be democracy, and it must always be the only kind of democracy worthy of the name: one based on free and open elections. Discussions—or negotiations—may validly be used to help create or improve the conditions for elections, but we must guard carefully against being drawn into supporting negotiations which would take the place of elections. The right of any group to speak for the people must be validated, and there is only one place to do it: the ballot box.

In El Salvador, with elections scarcely 4 weeks away, the hour is short, and the need is urgent. If at all possible, the appeals of this resolution should be heeded: The violence and abuses should end, and elections of the freest, cleanest, and most open sort should be held. Whether the resolution will be heeded of course remains to be seen. But by passing the resolution, we can place ourselves, in the eyes of the Salvadoran people and of the people of a watching world, squarely in favor of an end to killing and the beginning of a truly democratic process in which the voice of the people will prevail.

I therefore urge our colleagues to join in support of House Concurrent Resolution 226.

Mr. BARNES. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I rise in support of this resolution, notwithstanding the source and nature of some of the support that has been expressed for it.

Let me say that the Secretary of State did not welcome it when he was asked about it in committee this morning, and the reason it bears my name is that it flies in the face of the administration's position.

Mr. Speaker, I rise in strong support of the Yatron resolution. I congratulate the author of the resolution for articulating a policy that can be supported both by those who respond primarily to the emotional and humanitarian aspects of the crisis in El Salvador, and those who are seeking simply to analyze in a cold-blooded fashion where the best foreign policy interests of the United States reside.

This is in stark contrast to Reagan administration policy—which serves neither humanitarian goals, nor the best political interests of the United States.

The President and his spokesmen have expressed opposition time and time again to precisely the sort of unconditional discussions called for in this resolution. The administration has demanded that any such discussions occur subsequent to military surrender by the opposition, and that these discussions be limited to participation in the elections this month. The Yatron resolution attaches no such conditions or limitations. Rather, it recognizes that unconditional discussions are necessary to create "a stable environment" before "free and open democratic elections" will be possible.

President Reagan's opposition to such discussions make sense, if at all, only if you accept the premise that those in opposition to the Salvadoran junta are unalterably wedded to violence, and unwilling to negotiate with sincerity a peaceful resolution of the conflict. This may be the case, but I submit that this has not been proven, that there is considerable evidence to the contrary, and that Reagan administration policies, if pursued without change, will preclude any opportunity for any outcome other than total military victory by one side or the other, an outcome which could not occur without the even more massive shedding of blood.

The administration alleges that the opposition seeks to negotiate only as a ploy for time, and that it seeks to win at the bargaining table what it cannot win on the battlefield. No statement could seem better calculated to insure more violence.

If the opposition is bluffing, let us call the bluff, not raise the stakes.

Military aid to the tiny country of El Salvador is growing almost as fast as spending for domestic social programs is shrinking. The level of violence in El Salvador has, nevertheless, not been reduced: the opposition is stronger than ever; and the terrorists of the right remain out of control.

The United States should not continue to signal thumbs down to the negotiating and mediation proposals put forward by the opposition, by the church, by Mexico and other Latin American countries, or by various international political groups. The time has come in El Salvador to stop the fighting and start the talking.

Toward this goal, the Yatron resolution represents an important first step. I strongly urge its approval.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, the Yatron resolution is a good statement of the objectives which we ideally seek for obtaining a peaceful solution to the conflict in El Salvador. Its goals are ones supported by this administration, and President Duarte himself has encouraged the rebelling political factions to return to El Salvador and participate in building a democracy.

The word "negotiation" has been used several times here in connection with this resolution. If you will read the resolution, you will find there is no reference to negotiation. The words used are "unconditional discussions." There is quite a difference.

Both President Duarte and this administration are committed to a political, not a military, solution in El Salvador.

The resolution calls for the Duarte government to actively support the March 28 constituent assembly elections and the role of international observers.

The resolution calls for control of human rights abuses, a goal which we all support. Even such a staunch human rights advocate of the Washington Post—attached—believes President Reagan was correct in certifying that the junta in El Salvador is committed to human rights, reforms, and elections.

The Organization of American States, the Catholic bishops of El Salvador, peasant labor organizations, and the private sector, all have stated their strong support for the electoral process.

Finally, the resolution called for all major political factions to renounce violence in order to promote the free electoral process. That is perhaps the key element in this resolution. Some seem intent on placing the burden for achieving the goals of this resolution just on the junta in El Salvador. But what do the sponsors of this resolution propose in the way of bringing pressure against the guerrillas fighting in El Salvador to have them renounce violence and lay down their arms and agree to participate in the constituent assembly elections? Unilateral disarmament is no more realistic for achieving peace and insuring free and democratic institutions in El Salvador than it is in any other part of the world. Having the guerrillas accept the principles of this resolution would be the real triumph. I hope that can be achieved.

As our administration and the Duarte government seek a political solution to the crisis there, I believe we in the Congress can best serve the cause of peace and freedom by encouraging the political process.

The general thrust of the resolution is supported by the administration. Secretary of State Haig just this morning made that point before the Foreign Affairs Committee.

However, and unfortunately, certain aspects of the resolution detract from its basic scheme of support for the electoral process and may lead to misinterpretation. Due to procedures under which this resolution is being brought before the House, we cannot at this time make or even consider the needed changes. Nonetheless, I believe the central message of this resolution—support for free, fair, and open democratic elections in a peaceful environment—is important enough for me and all of us to lend our support.

[From the Washington Post, Jan. 29, 1982]

CERTIFYING EL SALVADOR

Congress had demanded that the president, in order to continue aiding El Salvador, certify that the junta is committed to human rights, reforms and elections. Yesterday the president so certified. We think he did the right and necessary thing. It's evident, however, that the situation in El Salvador is confused and dismal enough that, had a president wanted to, he might have marshaled grounds to go the other way.

The trouble lies not in the decision Mr. Reagan made but in the nature of the hurdle Congress forced him to jump. Many people in and out of Congress fear that the junta is a loser, unable to tame the extreme right sufficiently to fight the extreme left effectively. They could turn out to be right. But probably most congressmen who voted to set up the certification procedure did not mean that the president should take it literally and use it to cut off the junta. Rather, they surely meant to be giving the president at once a way to push the junta harder and an incentive to do so. Now that Mr. Reagan has certified the aid, however, some of them are feeling aggrieved.

They might better inquire more rigorously into what it is they mean to do. It is well to press the administration to be more attentive to rights, reforms and elections. This administration has needed pressing. It is misleading, however, to proceed as though El Salvador were a fresh issue on which the United States had the luxury of making an up-or-down judgment every six months, as the law stipulates, on the basis of the junta's rights record.

A little history: burned by Anastasio Somoza's replacement by a Cuba-oriented regime in Nicaragua, Jimmy Carter undertook a bold, preemptive political intervention in El Salvador. Ronald Reagan is following basically the same policy. Call it a grit-your-teeth policy: to support a reformist junta, with a lot of bad eggs in and around it, in order to avoid a Somoza-Sandinista choice. For critics to narrow their focus to the teeth-gritting without considering the policy's larger aims is shallow and unfair.

For people who can't take the junta, the honest response is not to say the junta is—surprise—beset and flawed, but rather to make the case that it's acceptable to the United States if El Salvador goes the Cuban way. Perhaps this will have to be said of Guatemala, burdened by a regime that seems beyond the pale even of the conservative Ronald Reagan, let alone of the liberal Jimmy Carter. El Salvador, however, is another story: the place where both presidents decided it was worth hanging on.

Mr. BARNES. Mr. Speaker, we have 2 minutes remaining on this side and we have three speakers.

I ask unanimous consent that my time be extended by 1 minute so that I can yield 1 minute to each of the three Members who are seeking time to address the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. WALKER. Mr. Speaker, reserving the right to object, one of the reasons for bringing this resolution up under this procedure is so it could not be amended and so that there could be limited discussion on it.

Mr. BARNES. None of the Members are seeking to amend the resolution.

Mr. WALKER. Well, if the gentleman would let me finish my statement, the problem, of course, that you have brought up under suspension of the rules so that it comes up under a time limitation.

My understanding is that there are a number of Members on this side that might have some amendments to offer if this resolution were brought up under the regular procedures of the House.

Therefore, I would say to the gentleman that while I understand his problem with regard to time, I will feel constrained to object, simply because the procedure picked was the gentleman's own.

Mr. BARNES. Well, I thank the gentleman for his courtesy to our colleagues in not permitting them the 60 seconds to speak.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. BARNES. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, this resolution is based on two fundamental assumptions. The first is that the only way to achieve peace in El Salvador is through an electoral process in which the people of that country will be given an opportunity to freely and fairly determine their own future.

The second assumption is that, given the nature of the situation and the

conflict in El Salvador, the only way to get an agreement between the major political factions in the country on an electoral process in which they can have some confidence is through unconditional discussions between those factions in an effort to find a way and a formula through which all sides can have some confidence that the results of such an election will be respected.

It is no more realistic to expect the guerrillas to lay down their arms and participate in an election supervised by the current security forces than it would be to have the security forces lay down their arms to run an election supervised by the guerrillas.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I will not take more than half a minute and I would like to yield the other half minute to my colleague, who seems to be under the pressure of time.

I support this resolution. I am not flying in the face of our administration or our President by doing so and I would like that understood. There is a difference between negotiations and discussions and I welcome this resolution.

Mr. Speaker, I yield 30 seconds to the other side.

The SPEAKER pro tempore. The gentlewoman will remain on her feet. She is yielding 30 seconds to a Member on this side.

Mr. BARNES. Can I reserve 30 seconds for our colleague?

The SPEAKER pro tempore. The gentleman from New York has the time at this point.

Mr. GILMAN. I yield 30 seconds to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, U.S. policy toward El Salvador has reached the point of impasse. On the one hand, the Reagan administration has claimed that the human rights record of the Salvadoran junta has improved, and has thus sanctioned increased military aid. U.S. officials continue to speak the extravagant rhetoric of the cold war, and raise the spector of further U.S. military involvement.

On the other hand, evidence collected by reputable international organizations, by journalists, by church officials, and by Members of this Congress disputes the administration's claims on human rights and calls to question the wisdom of our actions in El Salvador. The American people have expressed their anxiety over the situation in recent polls showing that a majority do not favor increases in U.S. military aid to El Salvador.

Meanwhile, each day brings reports of the mounting death toll in El Salvador.

Today, we address the issue of how to break this deadlock, halt the spiraling violence, and encourage a political solution to the conflict in this war-ravaged nation. This resolution goes to the heart of a problem that has for too long been obsecured by ill-considered rhetoric and imprudent action. By urging the President to press for unconditional discussion among the major political factions in El Salvador, it compels us to search for the circumstances that will guarantee a safe and stable environment for free and open elections.

These circumstances do not now exist in El Salvador. Violence, fear, and intimidation limit participation in the electoral process. Leaders of opposition parties—who have for decades sought a democratic solution in El Salvador—have been marked for death by the armed forces. The ballot box offers no freedom of expression to a people who are daily suffering the brutalities of a civil war.

Unless elections are placed in a broader context of political conciliation, they will be neither democratic nor bring about a peaceful resolution to the Salvadoran conflict. For this reason, I call upon the Members of this body to support this timely resolution.

I am also asking my colleagues to take an additional step that I believe will contribute to a viable political solution in El Salvador. A most promising avenue has been opened by Mexican President Lopez Portillo, who has offered to serve as a mediator among the polarized factions in Central America. President Lopez Portillo's offer is an historic opportunity that we cannot afford to ignore. Congressman JIM LEACH and I are circulating a letter to President Reagan asking him to consider President Lopez Portillo's peace initiative. I hope others will join us in this effort.

I urge the Members of this Congress to accept the challenge offered by President Lopez Portillo last week, when he said:

> Let us together prevent the catastrophe. It is possible. The consequences of failure are unthinkable. I appeal to men of good will; let us give each other a last opportunity. We will know how to make use of it.

Mr. Speaker, I rise on the theme that my colleague from New York (Mr. SOLARZ) was building upon and that is: In order for this electoral process to be meaningful in El Salvador, it seems to me that there has to be negotiations. I support the resolution that is before us; but in addition to that, I would urge my colleagues to seriously consider a letter that is being circulated by the gentleman from Iowa (Mr. LEACH) and myself and others on this side of the aisle that calls upon President Reagan to look into the issues raised by President Portillo and consider them for lasting solutions to the problems in Nicaragua as well as to those problems that are pending before us now in El Salvador.

Mr. GILMAN. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I just returned from Rome where I had the privilege of having lunch with three members of the government—deputies in the Italian Government—and they said that all the emphasis in their media on El Salvador is being orchestrated by the far left to divert attention from Poland and Afghanistan.

Free Lech Walesa. There should be marches in the streets in Amsterdam to free Lech Walesa. Instead, they are worrying about El Salvador.

Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. GARCIA) or as much time as I have left.

Mr. BARNES. And I yield my remaining time to the gentleman from New York (Mr. GARCIA) as well, Mr. Speaker.

Mr. GARCIA. Mr. Speaker, I thank both my colleagues.

Mr. Speaker, I would just like to say that I think that this debate is probably one of the most important debates that is going to take place on this floor.

Mr. Speaker, the crisis in El Salvador is escalating. Over 30,000 people have died since the 1979 coup; the economy is in a shambles, the society is split apart, and there are no signs that the situation will improve unless negotiations take place between all legitimate political groups in that country. The left, as well as the junta, must be able to begin a constructive dialog before elections can take place.

The elections will have no real meaning unless they are preceded by negotiations. The civil war will not stop for the elections. Both sides must lay down their arms, a reorganization of the military would be helpful in achieving this end, and elections must take place if there is to be any peace in El Salvador. But it is only through negotiations that any of this can be achieved.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. GILMAN. Mr. Speaker, I yield an additional 30 seconds to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. The United States must bear partial responsibility for the problems in El Salvador. We must use our influence to bring about negotiations, then elections, in El Salvador.

I, therefore, support House Concurrent Resolution 226, calling for negotiations and elections in El Salvador.

V. S. Naipaul, the Trinidad-born writer, said that—

Politics have to do with the nature of human association, the contract of men with men.

Let us try and help the people of El Salvador draw up a contract based on peace and understanding, not carnage and terror.

● Mr. BROWN of California. Mr. Speaker, earlier today I expressed my belief that U.S. policy toward El Salvador, aimed as it is toward a military solution rather than a political resolution, is fundamentally wrong. I realize that many of my colleagues would like to believe the Reagan administration's approach is workable. I cannot agree.

For those who still have faith in the policies the administration is pursuing, the following essay by a former member of the ruling junta should demonstrate, better than my own words have, that the present policy cannot work.

I also want to take the opportunity to place in the RECORD the statements made by Mr. Ruben Zamora, diplomatic representative of the opposition forces, on the occasion of a congressional workshop on El Salvador that took place on November 5, 1981. That conclave was organized by the gentleman from Texas, Representative LELAND, and I had the privilege of being one of the cosponsors. Mr. Zamora's statements were reprinted in the New York Times of January 22, 1982.

I hope my colleagues will take the time to read Mr. Zamora's article, because it represents the official policy of the opposition, whose views have been greatly distorted and misquoted in this country. If we forget for a moment that the United States is embroiled in that conflict on the side of one of its combatants, Mr. Zamora's position will appear to be coming from a detached, middle-of-the-road observer. It is frightening that people are being slaughtered in El Salvador for holding to views that, in our country, would barely raise attention.

EL SALVADOR: AN ELECTION IS BAD NEWS

(By Adolfo Arnoldo Majano)

The plan to hold an election next month in El Salvador, while not the direct cause of the country's current problems, is certainly one of the contributing factors. As a participant in the October, 1979, coup and as a former member of the governing junta, I believe that the election should not be held, that negotiations between all representative forces in the country take place first.

No election held in a climate of violence, with limited participation and little if any discussion of issues, can accomplish a legitimate peace in El Salvador. Negotiations would reveal the true obstacles and deep problems that are preventing peace, and thus would establish a framework for what must be done to reconcile our society.

Although social injustice is at the root of El Salvador's crisis, the immediate principal problem that Salvadorans confront is that of human-rights violations. These keep the people in constant fear and escalate the conflict.

More and more Salvadorans also are drawn into the social turmoil caused by unemployment and economic crisis. This touches all of the population, from the professional sector to the political resistance movements to the non-conformist fringe.

The magnitude of El Salvador's problems indicates that the present government lacks both a base to sustain itself and the possibility of having its programs accepted by the people. The government has exhausted all political possibilities of resolving the problems by cutting off dialogue with the opposition and negating the participation of other sectors in the govenment. Above all, the junta's effort will fail because it has lost all credibility and authority by masking or failing to cope with gross human-rights violations.

Negotiations would also cause these problems to be brought into the open, where they might be dealt with. Whatever solution might be reached it must respect the integrity of the military forces that demonstrated the spirit of justice by supporting the coup two years ago.

On Oct. 15, 1979, when the present civilian-military government was installed, the leaders of the coup issued a proclamation that attempted to synthesize the primary aspirations of our countrymen. As we stated, the coup's general objective was to correct the imbalance and inequities within a framework of mutual understanding among all sectors of Salvadoran society.

Those of us in uniform aspired to disengage the military from all partisan politics and to play a new role, that of a professional armed force to protect and defend our country. This new role would merit the respect and appreciation of our fellow citizens, and would prevent our being used by any party or group for its own interests.

Since then, the balance has shifted and power is held entirely by a small group. These people are responsible for taking our nation into a wider, more perilous arena of conflict, pitting the military against their countrymen. This has compromised national and military prestige and endangered the very future of the armed forces, for a population that has suffered under a corrupt military may decide to do away with it entirely.

Hardly anyone in El Salvador has been untouched by the tragedies generated by this conflict. An estimated 30,000 have died, 300,000 have fled to other countries or to refugee camps, and 300,000 others have been displaced from their homes within the country.

El Salvador's only hope is to return to the principles that we held in the 1979 coup. With dissenters shut out, elections will not accomplish this.

Elections in my country have set a terrible precedent of fraud and death. The few who have held power in collaboration with the military have never allowed the results of any honest election to be implemented.

Thus it would be much better to negotiate our differences and establish a natural transition that recognizes the new equilibrium of political forces within our country. Through negotiations, we can determine the shape of the future government, and then hold clean, authentic, democratic elections.

Only by such means can El Salvador's disputed political power be resolved, not by some superficial plan designed by the junta and totally disconnected from the reality of El Salvador today.

Although I have withdrawn from public life, I appeal to the international community to assist my country, first of all by respecting El Salvador's right of sovereign self-determination.

(Col. Adolfo Arnoldo Majano represented moderates in the Salvadoran military as a member of the junta established by the 1979 coup. Conservatives took over the junta a year later, and Majano resigned in protest. After being held in prison, he was deported last March. He now lives in Mexico.)

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SAVING SALVADOR—MR. ZAMORA'S REMARKS AT A CONGRESSIONAL CONFERENCE OF THE FUND FOR NEW PRIORITIES IN AMERICA

(By Ruben Zamora)

There are two different approaches to finding a political solution to the conflict in El Salvador.

The first was proposed by the Salvadoran Government and is supported by the Reagan Administration.

The other has been proposed by the Salvadoran opposition—the broad alliance of progressive political parties, peasants' and labor unions, professional associations, and popular mass organizations that form the Democractic Revolutionary Front and by the five political-military organizations now united in the Farabundo Marti National Liberation Front—and is supported by the Roman Catholic Church as well as several European and Latin-American countries.

The Government's proposal is just to have elections for a Constitutent Assembly in March, allowing the Democratic Front (not the National Front) to participate if it completely renounces violence and breaks its ties with the National Front.

In principle, the two fronts are not opposed to elections; in fact, they believe that elections should be part of a comprehensive solution to the Salvadoran conflict. The electoral process is a good instrument for the people to express their will—when the opportunity really exists to choose freely.

In the context of the present war and of Salvadoran history, however, there are absolutely no conditions for free and fair elections. There is a state of siege; in recent decades, elections have always been fraudulent and have no meaning for the people; there is a complete lack of confidence in the coercive apparatus through which the country has been ruled for so long and which is still very much entrenched in the power system.

In such circumstances, for the two fronts to lay down their arms to those who have been killing our people for years would be naïve, suicidal. Why should we do such a stupid thing, when, in addition, even United States sources recognize that the war is going in favor of our side? What they are doing is asking us to surrender, and that is something we are never going to do.

The two fronts have proposed, instead, a negotiated political solution, a comprehensive settlement that would include but not be limited to elections and which would require previous talks.

Why do we propose such a negotiated political solution? Because we feel responsible for the future of El Salvador and know what the prolonging of the war—one that was forced upon us—would mean; because we are sensitive to the suffering of our people; because we do not wish United States intervention with Marines, although in such a case we would continue the struggle indefinitely, and the conflict would become completely regionalized. If all of

that could be avoided by a process of political discussion, it is our responsibility to go through it.

We propose that the peace talks be conducted under five principles: first, the talks should be held between the Government and the Democratic and National Fronts. That means we will not accept any attempt to separate the forces of the fronts. Such a division would not lead to any realistic solution. Second, there would be witnesses from other governments, since, otherwise, deep mistrust could easily lead the talks nowhere. Third, the talks must be comprehensive—they should attempt to tackle the fundamental roots of the situation. Fourth, the Salvadoran people must be objectively informed; it is their interest that is at stake, and their broad support is necessary for an effective settlement. El Salvador's news media are totally controlled and manipulated by the oligarchy; thus, arrangements are necessary to avoid oligarchic manipulation of information. Finally, there should be no preconditions for the talks. A cease-fire could be a matter for discussion as part of the process itself.

For the agenda, we propose two fundamental and broad issues. The first one is the new economic and political order that would be sought after the discussions. Our program for economic and political change—based on principles of truly democratic and pluralistic representation of different social and political groups, complete respect for the human rights of the population, the creation of a mixed economy and an international policy of national independence and nonalignment—would be brought to the negotiating table. The second item is the restructuring of the armed forces. We are not calling for their destruction but for a process of making one out of the two armies that now exists: the popular army of the two fronts and the junta's army. For a political settlement to be successful, two opposing armies can not coexist. Unless we are able to form one with elements from both sides, peace can not be achieved.

Although difficult, a negotiated political solution seems the only rational possibility to end the war.

(Ruben Zamora is a leader of the Democratic Revolutionary Front in El Salvador.)●

● Mr. CORRADA. Mr. Speaker, I join in this resolution expressing the sense of the Congress that President Reagan should press for unconditional discussion among the major political sides in El Salvador in order to guarantee an environment conducive to free and open democratic elections.

The deteriorating situation in that troubled country is of direct importance and interest to our country. We are committed to insure that the Government of El Salvador is a faithful and democratic representation of the will and choice of its people. Only then can we be assured that no outside influence is attempting to disrupt the democratic process to impose their own choice of the Government to the detriment of the Salvadoran people.

I urge my colleagues to vote in favor of this resolution so that we may send a clear signal to the world of the position of the U.S. Congress on this important issue.●

● Mr. BEDELL. Mr. Speaker, as you know, House Joint Resolution 226 expresses the sense of the Congress that the President should press for unconditional discussions among the major factions in El Salvador in order to guarantee a safe and stable environment for free and open democratic elections in El Salvador. I believe this measure merits our fullest support and I urge my colleagues to vote in favor of its passage.

As you are all aware, since the President's decision to provide the Duarte regime with additional military assistance, the levels of political violence committed by both leftwing and rightwing extremists has increased. Meanwhile, our role in this conflict has become more complicated. U.S. personnel have been seen carrying M-16 automatic rifles and U.S. helicopter pilots are alleged to have ferried Salvadoran troops on combat missions.

The present situation is grave and appears to be worsening. As always, the end result is greater degrees of violence and more human suffering. Clearly, the present internal, political climate in El Salvador is not conducive to free and open elections.

Nonetheless, there is cause for hope. Hope that is reinforced by passage of House Joint Resolution 226. In the last several weeks, a clear momentum toward open discussions between the various factions in El Salvador has been growing. Ruben Zamora, leader of the Democratic Revolutionary Front, has endorsed a negotiated political settlement between the Duarte regime, the Democratic, and National Revolutionary Fronts. Last week, President Lopez Portillo of Mexico offered to act as a conduit in an effort to bring peace to Central America. Finally, last week President Reagan presented a plan to the Organization of American States that would promote greater economic and social development throughout Central America and the Caribbean Basin.

Each of these proposals merits our consideration. Each of these proposals helps to establish a framework under which discussions and negotiations for a peaceful and internal settlement to El Salvador's problems could begin. Passage of House Joint Resolution 226 demonstrates congressional commitment to promote peaceful solutions to the problems of El Salvador and the Caribbean Basin.

Although the hour is late, we must never blush from attempts at negotiation. Further, we should keep in mind the dramatic success that was scored by British- and United States-sponsored initiatives that led to a peaceful resolution to Zimbabwe's internal conflicts. This resolution attempts to buy time for El Salvador's future; time that could lead to a cease-fire agreement and constructive dialogs among all concerned parties in El Salvador and time that could lead El Salvador away from the violence that has marred its recent past.

For this reason, I support House Joint Resolution 226 and encourage my colleagues to join me in support of its passsage.●

● Mr. FRENZEL. Mr. Speaker, today's resolution calls for the President to urge the major factions in El Salvador to participate in discussions leading to safe elections next month. I, of course, will vote for this resolution, but I am not at all optimistic about the situation there.

The violence in El Salvador continues, with atrocities being committed by both sides. Obviously, free and open elections offer the best chance of moving toward a peaceful settlement. For such elections to be truly representative, though, two conditions would have to be met: all the major factions would have to participate and the violence would have to cease. Realistically, I see little chance of either happening soon.

Last year President Duarte invited all political parties to participate in the March 1982 elections for a constituent assembly. So far, the left has refused to participate and is doing all it can to discredit the election process. They may have some legitimate reasons for not participating; namely, fear of reprisals by the right and of the type of fraudulent practices that robbed the 1972 elections from Duarte and the Christian Democrats.

However, the left may also be afraid that they could not win the elections and hence do not want to give them legitimacy by participating. It is especially difficult for us to gage the popular support for the various factions in El Salvador. The failure of last year's final offensive to attract widespread support for the guerillas makes one question their popularity; other events indicate otherwise.

Probably the only thing we know for sure is that most El Salvadorans are tired of the fear and violence caused by the excesses of both sides in the civil war. Discussions on how to bring all parties into the election process would be a welcome development. Therefore, in spite of my fear that the factions in El Salvador are simply too polarized to make any real progress likely at this time, I shall cast one hopeful vote for this resolution.●

● Mr. BOLAND. Mr. Speaker, I strongly support the passage of House Concurrent Resolution 226.

As my colleagues are aware, the Government of El Salvador has scheduled constituent assembly elections for March 28. A great deal is at stake in both the conduct and the outcome of these elections. If all parties to the conflict in El Salvador are encouraged to participate, and the Salvadoran people are free to vote without fear of violence or retribution, the elections

might form a basis for a political settlement to the issues which divide the country. Building upon the results of free and open elections, the United States and other countries interested in facilitating negotiations between the leftists, the Christian Democrats, and the Salvadoran military might have a chance for success.

The upcoming elections represent an opportunity to begin a process that could end the bloodshed and destruction that has engulfed El Salvador. It is therefore imperative that every effort be made to insure that an environment is created in El Salvador which will make possible an election that represents the will of the Salvadoran people. Given the present level of violence in the country, and the short time remaining before the election date, the creation of that kind of environment will not be easy. It will only occur if the major political factions fully discuss procedures for participation in, and monitoring of, the elections, and it will only occur if those discussions begin soon. Our country, which has already made a sizable financial commitment to El Salvador, and which is being asked to increase the size of that commitment, has a responsibility to do what it can to encourage those discussions.●

● Mr. GONZALEZ. Mr. Speaker, no one could be opposed to the principle of a free and open election, such as is called for by the pending resolution. What troubles me is that the resolution speaks only to the desirability of democratic process; it does not call upon the powers that be to insure that the resulting constitutent assembly will have the power to be a real legislature. It does not state the sense of Congress that the Government of El Salvador should bend every effort to deal with the bitter poverty and hopelessness of generations that feed the violence in El Salvador—and in other places as well. It does not urge that our policy should be to encourage the formation of a government that is genuinely representative, genuinely responsive to its people, and genuinely responsible to the people, rather than to the oligarchy that has so long dominated El Salvador.

We cannot pretend that elections alone insure representative and democratic government. We all know that the forms of democracy exist even in the most rigid of dictatorships. Certainly we should appeal for elections, but we cannot neglect to appeal for elections that mean something.

Where in this resolution does it say that our sense is that genuine reform is needed in El Salvador? Where does it say that the government to be elected will be one that is, in fact, representative and responsive? Where does it say that the constituent assembly will have real power to act? Those are the things that count. We all know that the Russians and the Cubans have elections, and we all know that the forms of democracy existed even in the Reich. But we also know that Russian and Cuban elections mean nothing, because the so-called representatives have no power other than to act as parrots for the ruling powers. We cannot allow ourselves to be approving of any sham democracy, but the resolution does not speak to that.

We have to concern ourselves with the causes of the misery and bloodshed in El Salvador. Only when we face the fact that rebellion arises from the helplessness and hoplessness that feed bitter hatred, will we be on the right road. If we do not pursue a policy that addresses the causes of the rebellion, there is no way that elections will make any difference—especially if the elections turn out to be for a powerless and meaningless assembly. Where does it say in this resolution that the elections are the first step toward real reform?

Thus far in El Salvador, we have made the same sorry mistakes that were made in Vietnam. Our policy is directed almost exclusively to suppressing the rebellion, rather than to addressing and resolving its causes. We commit again such insane errors as sending troops to act as advisers, and then ship them out if they so much as carry a rifle. We pay well-guarded and safe bureaucrats extra benefits for being in a hazardous place, even while the soldiers, who are exposed and unguarded, get no hazardous duty pay at all. In Vietnam our Government went through the motions of supporting elections and carrying out reforms, but in the end nothing worthwhile ever happened. So it is in El Salvador today.

In Vietnam, we went through the motions of calling for international help and cooperation, but it was only for show. So it is today in the case of El Salvador.

I believe that what we must do is to seek real international cooperation in stopping the violence. I believe that this could be done by creating a multinational peacekeeping force under the aegis of the Organization of American States. It should not be an American force at all; it should be a Latin American force. It may be that we would have to pay for its costs—but we do that in the Middle East, and so there is precedent for such a thing. But it cannot be an American force, if it is to be accepted. It has to be a Latin force, by and for Latin peoples.

I believe that we must stand for policies that address the terrible problems of the people of El Salvador. That is what feeds the violence, more than anything else. That is what creates the opportunities that outside agents exploit. It seems axiomatic that if we cannot offer real hope, real progress, then we really have nothing at all to offer.

Most certainly the pending resolution speaks to a need that no one could deny. But what it does not speak to is the need for an American policy that seeks to lead, to do what genuinely needs to be done, that shows we have learned from the mistakes and tragedies of the past, and that will provide a real alternative to violence. It is not enough simply to call for the forms and rituals of elections; we have to call for real progress, for real reform, for a government that is real for the people, and not just for the oligarchs.

That, tragically, is what this resolution, for all its ideals and idealism, fails to do. If we want freedom in El Salvador, we have to give it a chance. To give it a chance we must create hope where there is none, provide opportunity where there is none, and provide the people what they have never had, and that is a voice in their own destiny. Those are the elements of freedom. Those are the tools that will defeat those who now are exploiting the bitterness and despair of generations of Salvadorans.●

● Mr. LOWRY of Washington. Mr. Speaker, over a year ago, I introduced a resolution which noted the alarming increase in violence in El Salvador and the need for a negotiated settlement to the conflict in that country. It affirmed the sense that a democratic government which respected human rights was necessary in order for stability to return to El Salvador. A year later, I am sad to note that that violence has not stopped, that respect for human rights has not increased, and that all the parties to the conflict have not yet begun talking to each other about the problems which are causing the war in El Salvador to continue.

More people died from violence in El Salvador last year than the year before. Systematic acts of kidnaping, torture, and murder continue to haunt the lives of ordinary citizens. Efforts toward a political solution to the violence have been obstructed. Earlier this year, I cosponsored House Concurrent Resolution 226 because I strongly believe that the role of the U.S. Government should be one of seeking a resolution of the crisis. The United States should urge unconditional discussions among the major political factions in El Salvador. I believe that passage of this resolution will be important in moving toward a situation where talks can be productive—a cease-fire and groundwork for a political settlement. While the elections in are only a month away and will not solve the inherent problems of El Salvador, I believe that if this Congress passes House Concurrent Resolution

226, it will be taking an important first step in the right direction.●

● Mr. LELAND. Mr. Speaker, I want to express my support for House Concurrent Resolution 226, which was debated today. This is an extremely important bill, and its meaning is clear: that "free and open democratic elections" cannot possibly be held in the climate of violence and terror maintained by the Government of El Salvador; and that "free and open democratic elections" can only be held in a "safe and stable environment"—an environment in which all parties and all citizens can express their political will without fear of death or persecution.

These appropriate conditions for democratic elections have never been the case in El Salvador. For decades political parties have participated in elections only to see the results of those elections tampered with or shamelessly overturned by the armed forces. President Duarte knows this best. The last elections in which he participated, in 1972, together with Guillermo Ungo, now President of the Democratic Revolutionary Front, as his running mate, were overturned by the armed forces. Jose Napoleon Duarte won that election and was jailed and tortured; Guillermo Ungo was sent into exile. It is this perennial fraudulent abuse of the electoral process by the armed forces and oligarchy of El Salvador that has brought the country to its present crisis. It is this failure of the electoral process (through fraud and abuse) to reflect the will of the Salvadoran people that has led broad sectors of the population and large part of the political spectrum to seek other means.

I have no reason to think that the situation with elections is any different now than it has historically been in El Salvador. The same people who orchestrated the 1972 and 1977 electoral frauds are today in firm control of the armed forces. Why should the Salvadoran opposition turn over their arms and participate in these elections, when they know they will suffer the same fate of brutal torture and death which befell Enrique Alvarez Cordoba, Juan Chacon, and the entire leadership of the Democratic Revolutionary Front in November of 1980. They know they will suffer the same fate as the four American women-religious. The time of the ingenuous is long passed in El Salvador.

I do not want to be misconstrued as appearing to oppose elections in principle. In principle, I strongly support elections as a means of expressing popular will. But these elections will be meaningless—indeed, they will only be one more episode in the long history of Salvadoran electoral abuse—if there are no prior unconditional negotiations between major political factions, to establish an environment in which truly free and open democratic elections can take place. In this respect, the only sector in El Salvador which opposes and truly fears open and democratic elections—in the truest sense of that phrase—is the group now in power. The Salvadoran opposition—both political and military—have repeatedly stated in the U.S. press and before this Congress, that they accept entering into elections, but only after negotiations are held to establish guarantees for democracy and an end to violence in El Salvador.

For this reason I support House Concurrent Resolution 226, and believe that it is a vote against the administration's and the Salvadoran Government's proposed "political solution," which is to legitimize a brutal and illegitimate rule by holding nonrepresentative and abusive elections. House Concurrent Resolution 226 is not a resolution in support of the March 28 elections—and there should be no misinterpretation of this. It is a clear vote in support of "unconditional discussions" before elections, and unconditional discussions without which there can be no "free and open democratic elections." For this reason I give my full support to this bill.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Maryland (Mr. BARNES) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 226.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## SENSE OF CONGRESS THAT SOVIET UNION SHOULD RESPECT ITS CITIZENS' RELIGIOUS FREEDOM AND RIGHT TO EMIGRATE, AND THAT THIS SHOULD BE AN ISSUE AT THE FORTHCOMING U.N. HUMAN RIGHTS MEETING

Mr. BONKER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H.J. Res. 373) expressing the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the 38th meeting of the United Nations Commission on Human Rights at Geneva in February 1982, as amended.

The Clerk read as follows:

H.J. RES. 373

Whereas the Soviet authorities have mounted a triple assault on their Jewish community, (1) the number Jews allowed to emigrate has been reduced from a high of 4,746 in the month of October 1979 to a total of only 9,400 in all of 1981, the lowest number since emigration began, (2) frequent harassments, arrests, and trials have become an almost daily occurrence, and (3) unparalled assaults on Jewish self-study groups occur in the major urban areas; and

Whereas such harassment and obstacles to free movement violate the obligations of the Soviet Union to respect the rights of freedom of thought, conscience, expression, religion, and emigration, as provided for in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the final act of the Conference on Security and Cooperation in Europe at Helsinki, and the Constitution of the Union of Soviet Socialist Republics: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of the Congress that—

(1) the President should instruct the United States delegation to the United Nations Commission on Human Rights meeting in Geneva in February 1982 to carry to the Commission the message that the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, should stop its harassments, arrests, and trials of the members of its Jewish community, and should stop its assaults on Jewish self-study groups;

(2) the Government of the Soviet Union should comply with its obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, and the Constitution of the Union of Soviet Socialist Republics, by ceasing the indiscriminate arrests and trials of Jewish activists, by ending the assaults on Jewish self-study groups, and by opening its doors to those who wish to emigrate;

(3) the President should express to the Government of the Soviet Union the strong and continuing opposition of the United States to such harassment of its citizenry, and the obstacles it presents to those who wish to emigrate; and

(4) the President should reiterate to the Government of the Soviet Union that the United States, in evaluating its relations with other nations, will consider the extent to which they honor their commitments under international law, particularly their commitments concerning human rights.

SEC. 2. The President shall transmit copies of this resolution to the Ambassador of the Soviet Union to the United States and to the Chairman of the Presidium of the Supreme Soviet.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. BONKER) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it gives me great pleasure to speak in behalf of House Joint Resolution 373 as amended, a resolution expressing the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the 38th meeting of the United Nations Commission on Human Rights this month.

House Joint Resolution 373, sponsored by our distinguished colleague from Colorado, PATRICIA SCHROEDER, was passed unanimously by the Foreign Affairs Subcommittee on Human Rights and International Organizations on February 3, and by the full Foreign Affairs Committee on February 25. The resolution has wide bipartisan support, and includes 102 cosponsors.

House Joint Resolution 373 is a particularly welcome resolution at this time because it instructs the U.S. delegation to the United Nations Human Rights Commission to carry our message of concern about Soviet violations of Jewish rights to emigration and freedom of religion to its current meeting in Geneva.

The year 1981 marked an unprecedented decline in human rights in the Soviet Union. Jewish emigration fell to its lowest point since emigration began in 1970. Harassment of Jewish study groups, confiscation of Jewish literature, and jailings and persecution of Hebrew teachers have increased. I would like to take this opportunity to again call upon the U.S.S.R. to honor their commitments under the 1975 Helsinki Final Act. I would also like to ask for compliance with the recently passed United Nations declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. This declaration calls upon all states to protect and promote freedom of religious belief or practice.

I am honord to support House Joint Resolution 373, and thank the Honorable CLEMENT ZABLOCKI, the chairman of the Foreign Affairs Committee for bringing this bill to the floor. I urge my colleagues to join me in supporting this timely resolution.

□ 1330

Mr. Speaker, I yield 2 minutes to the distinguished chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of House Joint Resolution 373, as amended, expressing the the sense of the Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the 38th meeting of the United Nations Commission on Human Rights at Geneva in February 1982.

I would like to begin, Mr. Speaker, by making special mention of the Honorable DON BONKER, chairman of the Subcommittee on Human Rights and International Organizations, and the Honorable JIM LEACH, ranking minority member, for their efforts and those of the subcommittee on considering this topic. The subcommittee has begun a series of hearings pursuing the matter of religious persecution. I wish to commend our colleagues for their diligence and continuing commitment to the spectrum of human rights issues.

The subjects of emigration and religious persecution have been raised at the Madrid meeting of the Conference on Security and Cooperation in Europe. In that forum, U.S. officials have strongly condemned Soviet anti-Semitism and religious intolerance, House Joint Resolution 373, now before us, urges that the Soviet Union strengthen its commitment to human rights concerns—specifically emigration and religious freedom; and additionally, that these matters be raised at the United Nations Commission on Human Rights currently underway in Geneva.

During consideration of House Joint Resolution 373, by the Committee on Foreign Affairs, an amendment to that measure was approved. The text of the amendment inserted emigration figures to exemplify the present situation in the Soviet Union. The statistics are grim—and steadily worsening. There has been a measurable decline in the number of Jews permitted to emigrate from the Soviet Union. Exit figures are at a 10-year nadir. The number of Soviet Jews allowed to emigrate has dipped from its 1979 high of 51,331 to only 9,400 during all of last year. The backlog of hopeful Jewish emigres in the Soviet Union is tremendous—an estimated 200,000 Soviet Jews have received letters of invitation from Israel. Such documents are deemed, by Soviet officials, as prerequisites to enable eligibility to emigrate. Jews are not the only Soviet ethnics confronted with restrictive Soviet emigration policies. Armenians and Germans are targets of such discriminatory policies as well.

As we are all aware, oppresive emigration procedures are not the extent of Soviet human rights violations. Restrictive Soviet practices pervade many areas affecting the lives and well-being of the Jewish community in the Soviet Union. Religious assemblies are prohibited, and Jews are singled out for harsher discriminatory policies than other elements of the population. Some are banished to psychiatric prisons for attempts to practice their religion while some are denied access to higher education and certain professions, and are often excluded from various organizations and professional associations, universities, and research endeavors.

Mr. Speaker, I urge the prompt passage of House Joint Resolution 373, as amended.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentlemen from New York (Mr. MCGRATH).

Mr. MCGRATH. Mr. Speaker, I wish to add my strong support for the measure now before us. The brutal attacks of the Soviet Government against those who wish to practice their religions and those who seek permission to leave the Soviet Union are reminiscent of darker days in Soviet history when rule by fear and terror characterized the regime of Joseph Stalin and other notorious leaders. Ostensibly, the Soviet Government has progressed from its violent past by joining many other nations in signing the Helsinki accords and other international declarations respecting religious freedom and the right to emigrate. In fact, official Soviet policy seems to have regressed.

The godless policy of Russification, which is a blatant attempt to destroy religious traditions in all of the Soviet Republics, is one example of Soviet contempt for international agreements respecting religious freedom. Harassment and imprisonment of Soviet Jews, Ukranian Catholics, and other groups are well documented and provided further evidence of official disregard for government promises to insure freedom of religion and the freedom to emigrate. An entire family of Russian Pentacostals has chosen to live in a self-imposed prison in our Embassy in Moscow rather than continue to live in constent fear of Soviet persecution.

It is imperative that we make Soviet human rights violations a key part of our foreign policy and that we continue to use our freedom to speak out against these violations in every available forum. I commend the gentlewoman from Colorado for her fine effort in this regard.

Mr. LEACH of Iowa. Mr. Speaker, I yield 3 minutes to the distinguished ranking minority member of the full committee, the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman from Iowa for yielding. I also rise in strong support of House Joint Resolution 373, which expresses the sense of the Congress that the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate.

The Soviet Union, in defiance of every recognized standard of humani-

tarian activity, and contrary to its solemn obligations under the Universal Declaration of Human Rights, the International Convenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, and even the Constitution of the Soviet Union, has continued to subject the Jewish population of the Soviet Union to outrageous assaults on their personal dignity, their freedom to practice their religion, and their freedom to emigrate if they so choose.

The Soviet Union's barbaric behavior contravenes its public declarations to accept internationally recognized duties and responsibilities in regard to a country's own citizenry. The Soviet Union's oppression of the Jewish population transcends the political dimensions of communist ideology and focuses the world's scorn not only on the bankrupt theories of Marx and Lenin, but on the specter of deep-seated anti-Semitism in Soviet Russia today.

I urge all my colleagues to support this resolution. It not only expresses the sense of the Congress; it lets the Soviet Union know in clear language that we are holding them responsible for their actions, that we are looking closely into the treatment of its citizens, and that the world will never again turn its back on events affecting the Jewish community.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise in staunch support of House Joint Resolution 373, which would express the sense of Congress that the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate. The resolution would also recommend that these rights be raised at the 38th meeting—now in progress—of the United Nations Commission on Human Rights at Geneva.

It saddens me that we are again protesting the Soviet Government's outrages against freedom and dignity. Yet we must continue our pressure, because the war of harassment against the dissident community by the Soviet Government has been escalating.

The hunger strike of Andrei Sakharov and his wife, Yelena Bonner, is only one incident that dramatized the plight of those subject to such outrages. The conviction of Viktor Brailovsky, the courageous cyberneticist who refuses to renounce his Jewish heritage, is another entry in the litany of shame. The tribulation of Ida Nudel, recognized in a World Day of Protest, March 2, this very day, is still another.

These are but three of many cases, but their import is clear. The Soviet Government has not eased up on its relentless persecution of Jewish citizens and those who share their love for freedom. The exercise of religious freedom is a grave crime against the state in the Soviet Union, and we must never lose sight of that horrendous reality.

Rather than easing up, the situation is growing worse. Last year's emigration rate from the Soviet Union, was a tenth of what it was in 1979, while the number of those who wish to leave spirals.

We cannot stand mute while the situation worsens. We, who pride ourselves on freedom that we take for granted, have a solemn obligation to those for whom freedom is only a distant dream.

We must call upon the leaders of the Soviet Union to account for their actions. At the Commission on Human Rights in Geneva, at the Helsinki review meetings in Madrid—in every conceivable forum at every time and in every place—we must state the case for freedom.

Because if we do not, no one else will.

And so we must continue our efforts—our speeches, our telegrams, our resolutions (such as H. J. Res. 373)—in the knowledge that they carry the full weight and power of the truth. Truth—the truth of justice and freedom and decency—is a force that can humble the most arrogant of tyrants.

If we keep up the pressure—confront the Soviet Government with the conscience of the nation that it abuses—the cause of Soviet Jewry will be won.

It is up to us to continue the fight—today, tomorrow, however long it takes—because it must be won.

Mr. LEACH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 373, which I have been proud to cosponsor and which expresses the sense of Congress that the Soviets should respect the rights of its citizens to emigrate and to practice their religions.

For several years, many of our colleagues in the Congress have worked for the release of Soviet prisoners of conscience, and for the freedom of Soviet citizens to exercise their basic human rights. There was hope that the signing of the Helsinki accords would mark the end of an era of harassment and religious persecution in the Soviet Union. But, unfortunately we have since watched as, time and time again, the Soviets have violated the agreements which they entered into freely, and which guarantee the rights of Eastern Europeans to practice their religions, and to emigrate, freely.

We have gathered, time after time, to express our concern for the release of Soviet Jewish prisoners of conscience. But this is not a Jewish issue—it is an issue which affects members of all faiths in the Soviet Union. This is an issue of fairness, of liberty and of humanity.

As Americans, we are joined in our commitment to the principles which have been so grossly violated by the Soviet Union. We cannot, we must not let this issue be buried. We must persist in renewed efforts to encourage the Soviet Union to comply with internationally accepted human rights standards.

House Joint Resolution 373 urges the Soviet Government to comply with its obligations under various international accords to respect rights of freedom of thought, conscience, expression, religion, and emigration. It calls upon the President to join us in our opposition to the Soviet's current policy of persecution, and to send a message to the U.S. delegation to the United Nations Commission on Human Rights meeting in Geneva this month to reinforce our commitment to fight for human rights in the Soviet Union. Accordingly, I urge my colleagues to support this resolution.

Mr. LEACH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH), who shares coleadership on this issue with Mrs. SCHROEDER of Colorado.

Mr. SMITH of New Jersey. Mr. Speaker, I commend the gentlewoman from Colorado for her resolution and feel it is important that we act favorably today on House Joint Resolution 373. The resolution is similar to House Concurrent Resolution 219 which I introduced last November and I thank the 155 Members who joined me in cosponsoring that resolution. It is abundantly clear to me that this is a bipartisan issue that cuts across all religious and ideological beliefs—and includes conservatives, moderates, and liberals.

Mr. Speaker, the rights of individuals to practice their religion and emigrate freely are fundamental principles that should be respected by all governments. In light of the Soviet Unions' agreement to the Helsinki Final Act, the U.N. Declaration of Human Rights and other human rights accords, it is tragic, unnecessary, and morally wrong that they have reneged on their word to respect religious freedom and emigration rights.

This past January, I had the opportunity to travel to the Soviet Union and while there met with many Jewish refuseniks and other religious activists. The 9 days I spent in Moscow and Leningrad have left a deep and everlasting impression on me. It is difficult to imagine the extreme hardships that the refusenik families face on a daily basis, in their attempt to achieve religious and cultural freedom. Like job loss, imprisonment, and beatings.

Mr. Speaker, I have returned home with a deeper commitment to human rights and a deeper commitment to se-

curing the rights of others to emigrate from the Soviet Union. I have also come home with a greater appreciation of our own fundamental freedoms and liberties. As a nation of immigrants, I am proud that the United States is the leader in promoting global emigration rights.

Mr. Speaker, today emigration is nonexistent for practically all citizens of the Soviet Union. Soviet authorities usually speak of the "reunification of families," usually meaning families torn apart by World War II and the postwar period, thus effectively avoiding the term "emigration."

Over the last few months, however, even emigration of Jews from the Soviet Union has virtually ceased. Since the Soviets began an effective form of emigration over a decade ago, more than a quarter of a million Jews have left the Soviet Union with Israel visas. This emigration reached its peak in 1979, when 51,000 Soviet Jews were granted exit visas. In 1981 only 9,447 Jews were permitted to leave—only 290 emigrated in January of this year.

Mr. Speaker, the crackdown on emigration includes tight eligibility requirements like the rule that requires that a Jew wishing to leave must receive a letter of invitation from a very close relative living in Israel. The Soviets insist that such a relative be of the first degree like a husband or wife, parent or child. Others need not apply. While in the Soviet Union we heard of many instances where the letters, even of the first degree did not get through the Soviet postal censors.

Mr. Speaker, it is troubling and disheartening that the Soviet authorities have retreated from their prior modest reforms and again have adopted a restrictive policy on emigration. Moreover, there is ample evidence to indicate a marked increase in harassments, job loss, arrests, and trials of Jews. Anti-Semitism is on the rise. Small Jewish religious and cultural seminars and informal Hebrew language study groups have been raided, disrupted, and disbanded by the KGB.

Mr. Speaker, I believe that it is important to stress that these repeated incidences of religious persecution by the Soviets are in direct violation of the commitments to freedom of thought, conscience, expression, or religion, and emigration made by the Soviet Union through its adoption of and participation as a signatory to the United Nations International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, the United Nations Charter, and the Universal Declaration of Human Rights. Mr. Speaker, this is a matter of international concern, this is a matter of international law. To remain silent on "compliance failure" would render these human rights pacts meaningless.

Mr. Speaker, I know firsthand that the refuseniks are eager for us to know the reality of their situation. They are eager for us to take their cause to the free world. They know, as we do, that recognition of their right to emigrate—even if only partially secured—will be won only if the West makes it a priority issue.

We must show the Soviet Union that we in the United States care, that we remember these refusenik families, and that we shall never forget the hardships and the fears that these people face on a day-to-day basis. We must demonstrate to them that the U.S. Government ranks human rights as a top priority issue, and make them realize and appreciate the fact that on this particular issue, we shall not budge. They must know that in the United States, the basic issue of human rights is not a partisan one; that no matter what party controls the White House, the Senate, or the House, we, as free Americans, will not be satisfied until all of those who wish to be free are free.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, as a cosponsor of House Joint Resolution 373, the Schroeder-Smith resolution calling on the President to instruct the U.S. delegation to the U.N. Human Rights Commission to raise the issue of religious freedom and emigration for Jews and others in the Soviet Union, I want to commend the chairman of the Subcommittee on Human Rights and International Organizations, as well as the chairman of the full committee, for acting expeditiously on this resolution so that it might be brought to the House floor before the U.N. Human Rights Commission completes its work next week.

Mr. Speaker, it is a well-known tragedy to the Members of this body that the Soviet Union has drastically cut back the number of Soviet Jews it is permitting to emigrate. On January 26, 1982, the New York Times reminded us of the historical tradition of Soviet authority in an editorial entitled "Still 'The Prisonhouse of Peoples.'" It stated:

> Permitting an orderly emigration and thus adhering to the Helsinki Final Act would not be just a favor to the United States. It would counter one of the oldest reproaches leveled at Russia. Even in czarist times, it grimly nicknamed "The Prisonhouse of Peoples" because so many ethnic minorities were sealed inside. They are now persecuted more brutally than even Communists in czarist times. Yet the new jailers call themselves enlightened.

The failure of the Soviet Union to comply with its obligations under numerous international human rights legal instruments cannot be ignored by this body and ought to be raised as a matter of pressing important before the U.N. Human Rights Commission meeting in Geneva.

The administration has expressed its assurances to us that the operative sections of House Joint Resolution 373 are fully consistent with administration policies. The State Department has also indicated that the United States may be able to speak on this issue during the remaining days of this session. Timely passage of this resolution will thus be seen by other delegations at the U.N. Human Rights Commission as the unified endorsement of the U.S. Congress and the American people.

Finally, I would like to recognize the efforts of other Members of this body who in many ways have drawn attention to this issue, either on an individual case-by-case basis or, as our colleague on this side of the aisle from New Jersey (Mr. SMITH), has done, in a general framework by calling on the Soviet Union to end its current policies of restricting religious freedom and emigration by Jews in the Soviet Union. His efforts and those of many others have contributed to the successful progress of the legislation before us.

I would urge my colleagues to vote unanimously in favor of House Joint Resolution 373 as a signal to the Soviet Union and the U.N. Human Rights Commission of the undivided commitment of the U.S. Government and its people for religious freedom and the right to emigrate for all peoples.

Thank you.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONKER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I am proud to be a cosponsor of House Joint Resolution 373. Its passage today will be a clear message of our continuing dedication to the principles of justice and human rights— a message not only to Soviet Jews but to oppressed people everywhere.

The Union of Councils for Soviet Jews has called current conditions the "bleakest period for Soviet Jewry" in more than a decade. Less than 400 Jews were allowed to leave the Soviet Union last November. Four thousand emigrated just 2 years previous.

There has been increased harassment, arrest, trial, and internal exiling of Jewish activists. There has been stepped-up assaults on Jewish cultural and scientific groups in an effort to destroy the Jewish cultural movement.

The rights that we take for granted—the rights to travel freely, to voice opinions, to worship as one chooses, to lead a productive life—are abused daily in the Soviet Union and in Eastern Europe.

In short, while reducing the number of exit permits it grants, the Soviet

Union has intensified the mistreatment and persecution of Soviet Jews that drive them to escape their homeland.

The plight of the Soviet Jews epitomizes why we must continue to nurture the principles of the Universal Declaration of Human Rights. We must continue to insist that the Soviet Union honor its international human rights commitments. We must continue to take the lead in protesting the oppression of Soviet Jews and to promote and protect basic human rights. We must continue to avail ourselves of every legitimate avenue and institution to persuade the leaders of the Soviet Union to open the doors to all those who wish to leave and to respect the fundamental rights of all those who choose to stay.

● Mrs. SCHROEDER. Mr. Speaker, I would like to thank all of my colleagues for helping me push through this resolution. The timeliness of this statement is crucial in that it will be brought before the 38th meeting of the United Nations Commission on Human Rights at Geneva, which ends later this month. I also want to thank our colleagues on the Senate side, Senator CLAIBORNE PELL and Senator RUDY BOSCHWITZ.

The Soviet Union's consistent denial of the basic freedoms of its citizens has long been a matter of grave concern to the American people.

The Soviet emigration procedures are restrictive, and thousands of potential emigrants are excluded from the application process itself. In 1980, Jewish emigration declined from 50,000 to 20,000. In 1981, Jewish emigration declined to less than 9,500. And each month since August of 1981, Soviet Jewry emigration has been at the lowest level in the 11-year history of the movement.

Repression of cultural, religious, and even scientific seminars continues unabated. This is, therefore, a particularly propitious time for this administration to make clear its unequivocal commitment to aiding Soviet Jews and other Soviet peoples in securing the rights guaranteed by the Soviet Government as a signatory of the Helsinki Final Act.

President Reagan has stated his commitment to "seek a broader interpretation of family reunification," to "identify and publicize specific examples of Soviet violations of human rights," and "to make it clear to the Soviets that their compliance with the various human rights agreements which they have signed will have a bearing on future bilateral trade and the exchange of technical and scientific information."

America has long been a symbol of freedom for the oppressed people of the East. It is only appropriate that the United States continue to aid in the struggle for the basic rights of Soviet Jews.●

● Mr. WEISS. Mr. Speaker, I rise in strong support of House Joint Resolution 373 which expresses congressional support for the rights of Jews in the Soviet Union. I want to commend the gentleman from Washington (Mr. BONKER). The distinguished chairman of the Subcommittee on Human Rights and International Organizations, for his leadership on this issue and for bringing this resolution to the floor.

More than 2.5 million Jews remain in the Soviet Union, where often their rights are withheld, their jobs are taken away from them, and their right to study the Hebrew language and to practice their religion is officially denied them. So long as these and other injustices exist, we cannot permit the world to believe that real human right exist in the Soviet Union.

Most glaringly evident is the restraint of free emigration conducted by Soviet officials against Jews. To give an idea of how serious the emigration picture is, only 368 Jews were granted exit visas by Soviet officials in October 1981, as compared to more than 4,700 in October 1979 and almost 1,500 in October 1980. This problem really is a crisis not only for Jews around the globe but for everyone who values basic human rights.

Only in the last 13 years have Jews been able to emigrate from the Soviet union without indiscriminate opposition by Soviet authorities. And yet even now that an official process for emigration has been established, the Soviet Government continues to make emigration a difficult and exhausting ordeal, often unobtainable for Jews. And there is no clearly foreseeable end in sight to this struggle.

Indeed, 1981 was, the bleakest year for Jews seeking to leave the Soviet Union since 1970. Not even 10,000 Jews were granted this right.

This sharp downturn also suggests the failure of the so-called quiet diplomacy. It is clear that unless we speak up for the basic rights of Soviet Jews we and they will not be heard

I believe that we must restate our support for human rights generally and for Soviet Jews specifically. The Soviet Union must be shown that America will not stand quietly by while Soviet Jews are prevented from being able to choose where they will live and how and what they will believe.

This crisis of Soviet Jewry is an indication too of the absence of concern on the part of Soviet officials for internationally recognized human rights. So long as the rights of Jews are abused, there can be no assurance of freedom or justice in the Soviet Union.●

● Mr. FRANK. Mr. Speaker, I am pleased to join my colleagues in strong support of House Joint Resolution 373, calling on the Soviet Union to cease its discriminatory policies against Jews and its low emigration rates. The gentlewoman from Colorado (Mrs. SCHROEDER), who authored the bill, and the gentleman from Washington (Mr. BONKER), who chairs the Subcommittee on Human Rights and International Organizations, have worked hard to produce a resolution that expresses the deep concern of the House, and sends a strong message to the Soviet authorities on this issue.

The problems facing Jews in the Soviet Union who wish to practice their religion or who wish to emigrate have been well documented by Members of this body who have recently returned from the Soviet Union, and from organizations that monitor Soviet activities on a regular basis. The facts are that the number of arrests of Jewish activists, the frequency of the harassment of Jewish religious and cultural leaders, and the dramatic decline in the emigration rate are clear signs of the intentional deterioration of the Soviet Union's practices toward Soviet Jews.

House Joint Resolution 373 is a clear statement of congressional concern for the treatment of Soviet Jews. It serves as a reminder to the Soviet Union that not only will the Congress not turn its back on such blatant violations of agreed-upon international accords, but that we consider this issue to be a priority in our bilateral relations.

The chairman of the Subcommittee on Human Rights and International Organizations, Mr. BONKER, has ably guided this resolution, and resolutions documenting other human rights abuses, through the Committee on Foreign Affairs. His efforts represent the continuing commitment of this body to the cause of human rights and the commitment of this body to the primacy of human rights in our bilateral relations with other countries. At a recent subcommittee meeting, the gentleman from Washington (Mr. BONKER) was instrumental in favorably reporting House Concurrent Resolution 100 to the full committee. This resolution expresses our concern for the Christian Pentecostals residing in the basement of the U.S. Embassy in Moscow. I look forward to the time in the near future when the House can devote itself to a discussion of the merits of this case as a further expression of its concern for human rights.

Mr. Speaker, at this crucial time for Soviet Jews, this body should be on record deploring the Soviet Union's mistreatment of its Jewish population. I urge the resolution's immediate adoption.●

● Mr. CORRADA. Mr. Speaker, I rise in support of House Joint Resolution 373 regarding the rights of Soviet citi-

zens to practice their religion and to emigrate.

Once again, we must continue to press the Soviet authorities to refrain from harassing Soviet citizens for seeking to practice one of the basic human rights—freedom to worship according to your own beliefs in your chosen religion. But this right, which we take for granted in our country, is not enjoyed by millions of persons throughout the Earth, with the Soviet Union being a major violator of this right.

The right to emigrate is also a basic right of all human beings and one which allows you to leave a country that does not protect its own citizens. Every person has a right not to feel a prisoner in his or her own country. Unfortunately for thousands of Jewish persons in the Soviet Union, they are harassed for requesting a visa to emigrate out of the Soviet Union and, in most instances, forbidden from leaving the country.

I join with our colleagues in calling upon the President to instruct the U.S. delegation to the United Nations Human Rights Commission to address this issue at the current session in Geneva.●

● Mr. FROST. Mr. Speaker, I am pleased to see this resolution considered in the House today. The people of the United States have invested a lot of time and energy into the battle on behalf of Soviet Jews—only to see much of their progress toward freedom of religion in Russia reversed during the past 3 years. The Congress is justified—even obligated—to communicate the concern of the American people to the Soviet Union through official channels.

Mr. Speaker, the statistics tell the story. Jewish emigration from the Soviet Union has plummeted in just 3 years. In 1979, 51,320 Jews were granted exit visas. Last year, only 9,447 Jews were permitted to leave the country to join their families in other parts of the world. For the many Members of Congress who work on behalf of Soviet refuseniks, the explanations for visa denials are always the same: The individual cannot leave the country because he or she has had access to military secrets; or their family arrangements on the other end are not satisfactory; or the denial is accompanied with no explanation.

The real explanation is that there exists an anti-Semitic bias in the upper echelons of the Soviet bureaucracy and that bias rears its ugly head during times of tension between the United States and the Soviet Union. Jews have always been the pawns in the much larger superpower game. They lose their jobs, they are arrested on fabricated charges, they are harassed, and they are often ignored when ill or in need of other kinds of assistance. But the Jews are not demure and they do not accept their situation in silence. For that, they have become a thorn in the side of the Soviet Government and they are treated accordingly.

These people do not deserve the treatment they get. They most certainly deserve the respect of the American people and the attention of this Congress. I am planning a trip to the Soviet Union this summer and I intend to make my views known to as many Soviet officials as will listen to me. I am also going to try to visit with refuseniks and I will be proud to point to passage of this resolution as evidence of Americans' concern and support for their cause.●

● Mr. DERWINSKI. Mr. Speaker, I wish to join in voicing my support for House Joint Resolution 373, which expresses the sense of Congress in respecting the rights of the citizens of the Government of the Soviet Union in practicing their religion and in honoring their rights to emigrate from the Soviet Union.

The Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights. However, the Soviet Union has failed to live up to the language of these basic accords. The severe decrease in emigration by Soviet Jews is a great cause for alarm, as well as the crackdown on refuseniks and dissidents held captive in the U.S.S.R.

The trials of Victor Brailovsky, Vladimir Kislik, and Kim Fridman exemplify the Soviet Government's denial of basic rights and its failure to honor its international agreements. Others who have been unjustly persecuted, such as Ida Nudel and Anatoly Shcharansky, merely wish to be reunited with their families in Israel. The attempts at free expression by Andrei Sakharov were met with official condemnation and his exile to Gorki. These actions represent gross violations of basic rights which must be addressed at every opportunity in order to constantly remind Soviet authorities of the implications of their failure to live up to their word.

We must direct attention to the inhuman treatment of the Soviet Jew but also call the sense of Congress to express our displeasure over the treatment of the Ukrainian Orthodox and Catholic churches as well as the Christian and Catholic churches in Lithuania, Estonia, and Latvia and other non-Russian nations held captive by the U.S.S.R.

The Kremlin continues to persecute and suppress the national churches in the U.S.S.R., and as we are painfully aware, the Soviets have historically denied religious freedom as a means to eradicate nationalism of the Ukrainians, Lithuanians, Estonians, Latvians, and other captive people. It is important for the United States to continue to champion the rights of national, cultural, and religious freedoms for all peoples held captive. There are millions who are looking to us to live up to that commitment.

From the viewpoint of human rights, religious genocide and U.S. interests, this resolution has considerable significance, and I urge the support for this extremely important and humanitarian measure.●

● Mr. LEHMAN. Mr. Speaker, as a cosponsor of House Joint Resolution 373, I would like to urge my colleagues to support passage of this resolution which concerns the rights of Soviet citizens to practice their religion and to emigrate. Passage of this legislation will place this issue among those to be raised at the Geneva meeting of the United Nations Commission on Human Rights.

During the last several months, the deterioration of Soviet Jewish life has reached alarming proportions. Persecution has increased for Jews who dare to apply for permission to emigrate from the Soviet Union. The loss of employment, daily harassment, beatings, elimination of telephone communication, arrests, and long prison sentences or internal exile on such spurious charges as "malicious hooliganism" or "parasitism" make up the core of systematic persecution encountered by the Jewish citizens of the Soviet Union.

Jews who dare to expect and demand their right to religious expression and their right to emigrate face this kind of severe punishment. And many Soviet Jews who wish to be reunited with their loved ones have suffered under these conditions for years. The situation for them and for other Jewish citizens is now worse than ever before.

Most deplorable is the Soviet Government's official exhibition of anti-Semitism. The Government crackdown on cultural practices such as the teaching of Hebrew or Soviet Jewish history, has made life unbearable for Soviet Jews. Systematic persecution takes the form of KGB searches of homes and seizures of materials pertaining to Jewish culture, and the arrests and charges directed at those engaged in Jewish cultural life have increased.

These gross violations of human rights affect all Jews in the Soviet Union. Anti-Semitic news articles, television programs, and books, all Government-sanctioned, are not uncommon. It has become more difficult for Jews to be accepted to universities and scientific institutes, and are, instead, the target of the military draft. Without applying to emigrate and without involvement in Jewish cultural activi-

ties, life for Jews in the Soviet Union is very bleak.

As life becomes more unbearable for Jews, the hope to seek a better life elsewhere has also been dealt a severe blow. The low figure of 9,447 Jews who emigrated from the Soviet Union in 1981 is less than one-fifth of the number of Jews permitted to leave the Soviet Union in 1979. This year, even fewer people were permitted to leave than in previous months.

The crackdown on Jewish emigration and on the Jewish cultural activities of Jews in general is alarming. The arrest of the distinguished Dr. Victor Brailovsky in 1980 after the opening of the Madrid review conference on the Helsinki agreement, the arrests and sentencing of Vladimir Kislik and others are part of a crackdown on Jews who dare to conduct scientific of cultural seminars.

The silencing of citizens whose human rights are violated has a very strong echo, one that is too loud to ignore.

It is essential that we in Congress increase the pressure to improve the situation of Soviet Jews, and intensify our efforts to persuade the Soviets to allow those who wish to emigrate to do so. If the present treatment of Jewish citizens continues, the number of Jews wishing to emigrate will increase, and the noise will become louder still. It is thus absolutely necessary that we continue to do all we can to seek improvement.

The Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, as well as the Constitution of the Union of Soviet Socialist Republics, express well the right to freedom of thought, religion, and emigration. It is time that those who profess these commitments begin also to adhere to them. I will continue to do all I can to help make this possible.●

● Mr. KEMP. Mr. Speaker, when the Soviet Union signed the Helsinki accords its leaders committed themselves under international law to uphold the basic human right to worship God freely according to individual conscience.

Since that time we have witnessed a major crackdown against religious believers throughout the Soviet Union. Today we are celebrating the release of Ida Nudel, who has been exiled in Siberia these last 4 years—since the Helsinki agreement—for the simple crime of being Jewish in the Soviet Union. We still do not know if she will be allowed to emigrate.

In the basement of the American Embassy in Moscow today six Russian Pentecostal Christians are hoping and praying that another member of their family, Lidiya Vashchenko, will be released by the Soviet authorities and allowed to return to a grim exile within her own land.

Maybe the Soviet leaders think we did not really mean it when we signed the Helsinki accords. They have counted on our growing weary of dissidents, or even a little embarrassed at the hope persecuted believers are placing in America.

I want to commend my colleagues in the House for sending this strong message that the United States will not shut its eyes to religious persecution in the Soviet Union. And I join them in urging President Reagan to see that this issue is raised forcefully and repeatedly when the Commission on Human Rights meets in Geneva this month.●

● Mr. MINISH. Mr. Speaker, I rise at this time to express my vigorous support for the measure which is currently before us, House Joint Resolution 373. I would also strongly urge my colleagues to join me in supporting this bill which was introduced by the fine Congresswoman from Colorado, Mrs. SCHROEDER.

House Joint Resolution 373 expresses the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the current meeting of the United Nations Commission on Human Rights in Geneva.

The alarming decline in Soviet Jewish emigration has been a grave concern of mine for sometime. Last November, I introduced House Concurrent Resolution 229 which calls upon the U.S.S.R. to end the current policies of Jewish emigration discrimination and expressing the sense of the Congress that the dramatic decline of Jewish emigration from the Union of Soviet Socialist Republics is morally reprehensible.

The statistics on Jewish emigration unfortunately speak for themselves. The marked decline in the number of Jews emigrating from the U.S.S.R. can be seen clearly since 1979. In that year, 51,320 Jews emigrated, while in 1981 only 9,447 Jews were allowed to emigrate. This is a drop of nearly 42,000 people in 2 years. The statistics for January 1982 are even more discouraging with only 290 emigrants. If this trend continues, 1982 could represent an all-time low in Jewish emigration from the U.S.S.R.

However, aside from the problem of emigration, I have been deeply concerned about reports of increasing anti-Semitism in the Soviet Union. For prejudice in general, and anti-Semitism in particular, are ugly phenomenon. Behavior which defames or ridicules a religious or ethnic group cannot be tolerated. Whenever one group is defamed, the whole of humanity is pulled a little farther down. I therefore believe that there is a pressing need for this resolution to be passed today, so there can be no doubt that this great Chamber will not acquiesce in the face of anti-Semitism.

Mr. Speaker, I am proud to support this legislation today and once again urge its expeditious passage.●

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● Ms. FERRARO. Mr. Speaker, I rise in strong support of House Joint Resolution 373 and I urge my colleagues to join me in that support.

I do so with firm conviction because I believe that, as Americans, we imperil our own deep sense of human dignity if we ignore the human rights violations being perpetrated against thousands of Soviet Jews, who ask nothing more than the right to leave the Soviet Union for Israel to practice their religion.

This is not just a matter of moral right; it is also international law. Soviet Jews are being harassed, arrested, and imprisoned for only one reason—because they are Jews.

This frightening anti-Semitism has flourished to the point that in 1981, about 30,000 Jews requested visas to leave the Soviet Union, but only 9,447 were approved. In 1982, the figures are alarmingly low, even more unsettling than in 1981.

The International Covenant on Civil and Political Rights is just one of many documents that guarantee the much-cherished freedom of travel and the freedom of religious expression. This administration and this Congress cannot remain fully faithful to the precious liberties secured by the Covenant unless we vigorously voice our strongest objections now to Soviet authorities. This is precisely what we seek to do here today.

As Americans, Jewish and non-Jewish alike, we share the luxury of living in a country that respects, even encourages, the robust exercise of our human rights. But, at the same time, we recognize that human rights cannot be limited to certain countries. They cannot be allowed to disappear at the boundaries to the Soviet Union. Human rights are universal and must be universally recognized.

The Soviet Government should immediately stop the further harassment of its Jewish citizens and allow open emigration to Israel as a necessary precondition for the free expression of religion for these people. Only when this is done will the Soviet signature on the Universal Declaration of Human Rights carry any meaning.●

Mr. BONKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. BONKER) that the House suspend the

rules and pass the joint resolution (H.J. Res. 373) as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES ACT OF 1982

Ms. FERRARO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5366) to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules, as amended.

The Clerk read as follows:

H.R. 5366

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Federal Employees Flexible and Compressed Work Schedules Act of 1982".

SEC. 2. Chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting "SUBCHAPTER I—GENERAL PROVISIONS" before section 6101, and by inserting after section 6106 the following new subchapter:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULES

"§ 6121. Definitions.

"For purposes of this subchapter—

"(1) 'agency' means an Executive agency and a military department;

"(2) 'employee' has the meaning give it by section 2105 of this title;

"(3) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or is required to account for by leave or otherwise;

"(4) 'credit hours' means any hours, within a flexible schedule established under section 6122 of this title, which are in excess of an employee's basic work requirement and which the employee elects to work so as to vary the length of a workweek or a workday;

"(5) 'compressed schedule' means—

"(A) in the case of a full-time employee, an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays, and

"(B) in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours which is scheduled for less than 10 workdays;

"(6) 'overtime hours', when used with respect to flexible schedule programs under sections 6122 through 6126 of this title, means all hours in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance, but does not include credit hours; and

"(7) 'overtime hours', when used with respect to compressed schedule programs under section 6127 and 6128 of this title, means any hours in excess of those specified hours which constitute the compressed schedule.

"§ 6122. Flexible schedule; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish, in accordance with this subchapter, programs which allow the use of flexible schedules which include—

"(1) designated hours and days during which an employee on such a schedule must be present for work; and

"(2) designated hours during which an employee on such a schedule may elect the time of such employee's arrival at and departure from work, solely for such purpose or, if and to the extent permitted, for the purpose of accumulating credit hours to reduce the length of the workweek or another workday.

An election by an employee referred to in paragraph (2) shall be subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled.

"(b) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement under section 6130(a) of this title—

"(1) any program under subsection (a) of this section may be terminated by the Office of Personnel Management if it determines that the program is not in the best interest of the public, the Government, or the employees; or

"(2) if the head of an agency determines that any organization within the agency which is participating in a program under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional costs because of such participation, such agency head may—

"(A) restrict the employees' choice of arrival and departure time,

"(B) restrict the use of credit hours, or

"(C) exclude from such program any employee or group of employees.

"§ 6123. Flexible schedules; computation of premium pay

"(a) For purposes of determining compensation for overtime hours in the case of an employee participating in a program under section 6122 of this title—

"(1) the head of an agency may, on request of the employee, grant the employee compensatory time off in lieu of payment for such overtime hours, whether or not irregular or occasional in nature and notwithstanding the provisions of sections 5542(a), 5543(a)(1), 5544(a), and 5550 of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act, as amended, or any other provision of law; or

"(2) the employee shall be compensated for such overtime hours in accordance with such provisions, as applicable.

"(b) Notwithstanding the provisions of law referred to in paragraph (1) of subsection (a), an employee shall not be entitled to be compensated for credit hours worked except to the extent authorized under section 6126 of this title or to the extent such employee is allowed to have such hours taken into account with respect to the employee's basic work requirement.

"(c)(1) Notwithstanding section 5545(a) of this title, premium pay for nightwork will not be paid to an employee otherwise subject to such section solely because the employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which such premium pay is otherwise authorized; except that—

"(A) if an employee is on a flexible schedule under which—

"(i) the number of hours during which such employee must be present for work, plus

"(ii) the number of hours during which such employee may elect to work credit hours or elect the time of arrival at and departure from work,

which occur outside of the night work hours designated in or under such section 5545(a) total less than 8 hours, such premium pay shall be paid for those hours which, when combined with such total, do not exceed 8 hours, and

"(B) if an employee is on a flexible schedule under which the hours that such employee must be present for work include any hours designated in or under such section 5545(a), such premium pay shall be paid for such hours so designated.

"(2) Notwithstanding section 5343(f) of this title, and section 4107(e)(2) of title 38, night differential will not be paid to any employee otherwise subject to either of such sections solely because such employee elects to work credit hours, or elects a time of arrival or departure, at a time of day for which night differential is otherwise authorized; except that such differential shall be paid to an employee on a flexible schedule under this subchapter—

"(A) in the case of an employee subject to such section 5343(f), for which all or a majority of the hours of such schedule for any day fall between the hours specified in such section, or

"(B) in the case of an employee subject to such section 4107(e)(2), for which 4 hours of such schedule fall between the hours specified in such section.

"§ 6124. Flexible schedules; holidays

"Notwithstanding sections 6103 and 6104 of this title, if any employee on a flexible schedule under section 6122 of this title is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, such employee is entitled to pay with respect to that day for 8 hours (or, in the case of a part-time employee, an appropriate portion of the employee's biweekly basic work requirement as determined under regulations prescribed by the Office of Personnel Management).

"§ 6125. Flexible schedules; time-recording devices

"Notwithstanding section 6106 of this title, the Office of Personnel Management or an agency may use recording clocks as part of programs under section 6122 of this title.

"§ 6126. Flexible schedules; credit hours; accumulation and compensation

"(a) Subject to any limitation prescribed by the Office of Personnel Management or the agency, a full-time employee on a flexible schedule can accumulate not more than 10 credit hours, and a part-time employee can accumulate not more than one-eighth of the hours in such employee's biweekly basic work requirement, for carryover from

a biweekly pay period to a succeeding biweekly pay period for credit to the basic work requirement for such period.

"(b) Any employee who is on a flexible schedule program under section 6122 of this title and who is no longer subject to such a program shall be paid at such employee's then current rate of basic pay for—

"(1) in the case of a full-time employee, nor more than 10 credit hours accumulated by such employee, or

"(2) in the case of a part-time employee, the number of credit hours (not in excess of one-eighth of the hours in such employee's biweekly basic work requirement) accumulated by such employee.

"§ 6127. Compressed schedules; agencies authorized to use

"(a) Notwithstanding section 6101 of this title, each agency may establish programs which use a 4-day workweek or other compressed schedule.

"(b)(1) An employee in a unit with respect to which an organization of Government employees has not been accorded exclusive recognition shall not be required to participate in any program under subsection (a) unless a majority of the employees in such unit who, but for this paragraph, would be included in such program have voted to be so included.

"(2) Upon written request to any agency by an employee, the agency, if it determines that participation in a program under subsection (a) would impose a personal hardship on such employee, shall—

"(A) except such employee from such program; or

"(B) reassign such employee to the first position within the agency—

"(i) which becomes vacant after such determination,

"(ii) which is not included within such program,

"(iii) for which such employee is qualified, and

"(iv) which is acceptable to the employee.

A determination by an agency under this paragraph shall be made not later than 10 days after the day on which a written request for such determination is received by the agency.

"(c) Notwithstanding any other provision of this subchapter, but subject to the terms of any written agreement under section 6130(a) of this title, any program under subsection (a) may be terminated by the Office of Personnel Management, or the agency, if it determines that the program is not in the best interest of the public, the Government, or the employees.

"§ 6128. Compressed schedules; computation of premium pay

"(a) The provisions of sections 5542(a), 5544(a), and 5550(2) of this title, section 4107(e)(5) of title 38, section 7 of the Fair Labor Standards Act, as amended, or any other law, which relate to premium pay for overtime work, shall not apply to the hours which constitute a compressed schedule.

"(b) In the case of any full-time employee, hours worked in excess of the compressed schedule shall be overtime hours and shall be paid for as provided by whichever statutory provisions referred to in subsection (a) are applicable to the employee. In the case of any part-time employee on a compressed schedule, overtime pay shall begin to be paid after the same number of hours of work after which a full-time employee on a similar schedule would begin to receive overtime pay.

"(c) Notwithstanding section 5544(a), 5546(a), or 5550(1) of this title, or any other applicable provision of law, in the case of any full-time employee on a compressed schedule who performs work (other than overtime work) on a tour of duty for any workday a part of which is performed on a Sunday, such employee is entitled to pay for work performed during the entire tour of duty at the rate of such employee's basic pay, plus premium pay at a rate equal to 25 percent of such basic pay rate.

"(d) Notwithstanding section 5546(b) of this title, an employee on a compressed schedule who performs work on a holiday designated by Federal statute or Executive order is entitled to pay at the rate of such employee's basic pay, plus premium pay at a rate equal to such basic pay rate, for such work which is not in excess of the basic work requirement of such employee for such day. For hours worked on such a holiday in excess of the basic work requirement for such day, the employee is entitled to premium pay in accordance with the provisions of section 5542(a) or 5544(a) of this title, as applicable, or the provisions of section 7 of the Fair Labor Standards Act, as amended, whichever provisions are more beneficial to the employee.

"§ 6129. Administration of leave and retirement provisions

"For purposes of administering sections 6303(a), 6304, 6307 (a) and (c), 6323, 6326, and 8339(m) of this title, in the case of an employee who is in any program under this subchapter, references to a day or workday (or to multiples or parts thereof) contained in such sections shall be considered to be references to 8 hours (or to the respective multiples or parts thereof).

"§ 6130. Application of programs in the case of negotiated contracts

"(a) Employees within a unit with respect to which an organization of Government employees has been accorded exclusive recognition shall not be included within any program under this subchapter except to the extent expressly provided under a written agreement between the agency and such organization.

"(b) An agency may not participate in a flexible or compressed schedule program under a negotiated contract which contains premium pay provisions which are inconsistent with the provisions of section 6123 or 6128 of this title, as applicable.

"§ 6131. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with—

"(1) such employee's rights under section 6122 through 6126 of this title to elect a time of arrival or departure, to work or not to work credit hours, or to request or not to request compensatory time off in lieu of payment for overtime hours; or

"(2) such employee's right under section 6127(b)(1) of this title to vote whether or not to be included within a compressed schedule program or such employee's right to request an agency determination under 6127(b)(2) of this title.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes, but is not limited to, promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

§ 6132. Regulations; technical assistance; program review

"(a) The Office of Personnel Management shall prescribe regulations necessary for the administration of the programs established under this subchapter.

"(b)(1) The Office shall provide educational material, and technical aids and assistance, for use by an agency in connection with establishing and maintaining programs under this subchapter.

"(2) In order to provide the most effective materials, aids, and assistance under paragraph (1), the Office shall conduct periodic reviews of programs established by agencies under this subchapter particularly insofar as such programs may affect—

"(1) the efficiency of Government operations;

"(2) mass transit facilities and traffic;

"(3) levels of energy consumption;

"(4) service to the public;

"(5) increased opportunities for full-time and part-time employment; and

"(6) employees' job satisfaction and nonworklife.".

SEC. 3. The chapter analysis for chapter 61 of title 5, United States Code, is amended by inserting "SUBCHAPTER I—GENERAL PROVISIONS" immediately below the chapter heading, and by inserting the following items at the end of such analysis:

"SUBCHAPTER II—FLEXIBLE AND COMPRESSED WORK SCHEDULE

"6121. Definitions.
"6122. Flexible schedules; agencies authorized to use.
"6123. Flexible schedules; computation of premium pay.
"6124. Flexible schedules; holidays.
"6125. Flexible schedules; time-recording devices.
"6126. Flexible schedules; credit hours.
"6127. Compressed schedules; agencies authorized to use.
"6128. Compressed schedules; computation of premium pay.
"6129. Administration of leave and retirement provisions.
"6130. Application of programs in the case of negotiated contracts.
"6131. Prohibition of coercion.
"6132. Regulations; technical assistance; program review.".

□ 1345

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from New York (Ms. FERRARO) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. CORCORAN) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1978, this Congress authorized in Public Law 95-390 a 3-year experiment for Federal agencies on the use of alternatives to the traditional fixed schedule 8-hour workday. Since then, more than 325,000 Federal employees in 1,500 organizations have taken part in this experiment. H.R. 5366 permanently authorizes this successful program so that it will not expire on March 29, just 4 weeks from today.

Public Law 95-390 required the Office of Personnel Management to study the impact of alternative work schedules (AWS) on efficiency, transportation, energy consumption, service to the public, and quality of life for employees and their families. OPM found "that all of the alternative schedules used in the experiment were successful in most situations from the perspectives of experimenting organizations and individuals."

This Federal experience closely parallels the private sector experience. There is a substantial body of literature concerning the use of alternative work schedules in the private sector. Over 10 million full-time workers in thousands of different firms enjoy flexible schedules and compressed work weeks. These variations from the standard, fixed-schedule 8-hour workday evolved as a means of coping with social change, particularly the dramatic increase of women in the workforce, and the desire of all employees for a better accommodation between their working and personal lives. Employers found that they benefited from higher usage of buildings and equipment, decreased traffic congestion, and improved attendance, punctuality and morale. Employees felt they had more control over their working lives. Flexible schedules have also helped reduce the conflicts between work and personal needs, particularly for working women and others with household responsibilities.

The bill we are now considering, H.R. 5366, is nearly identical to Public Law 95-390, the existing authorization for the successful experiment conducted during the past 3 years. The program permits, but does not require, Government agencies to utilize flexible and compressed work schedules. Management retains broad discretion on the use of these alternative work schedules (AWS) to prevent disruption of agency operations or additional agency costs. Subject to collective bargaining agreements, management has the right, under this bill, to terminate any (AWS) program if it determines the program is not in the best interest of the public, the Government, or the employees. H.R. 5366 would continue the requirement for negotiating with exclusively recognized representatives concerning flexible or compressed work schedules.

Where employees demonstrate their desire to work compressed work schedules that extend beyond 8 hours in a workday or 40 hours in a workweek in order to shorten another workday or workweek, certain premium pay and scheduling provisions of title 5 and the overtime pay provisions of the Fair Labor Standards Act may be waived. As in the past, employees may request personal hardship exemptions from participating in the program, and of course coercion concerning employee rights is clearly prohibited.

At this point I would like to stress two important facts. First, this bill does not alter in any way the current relationship between employee organizations and management. The Civil Service Reform Act of 1978 (Public Law 95-454) clearly established changes in working hours as a subject for negotiation. This will not be affected by the enactment of H.R. 5366.

Second, and I hope my colleagues are listening closely, the Congressional Budget Office has found, "* * * there will be little additional cost, and perhaps some initial savings, resulting from enactment of this bill (H.R. 5366)."

The OPM has recommended that flexitime authorization be made permanent. However, the administration did not meet the requirement of Public Law 95-390 that a legislative proposal be submitted by September 30, 1981. When no recommendation had been submitted by the beginning of this session of Congress, I introduced legislation to avoid the disruption which would occur if the authorization was permitted to expire on March 29, 1982. That bill, which we are now considering, was reported without a single no vote by the Committee on Post Office and Civil Service. That I might point out is a very unusual occurrance.

GAO in its testimony on this legislation said that allowing the AWS program to lapse would have a severe impact on the morale of a demoralized Federal work force. The program in its present form is a success. It should be continued. I urge you to join me in accepting the wisdom of Will Rogers, "If it ain't broke, don't fix it." This program ain't broke, let's reauthorize it.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I thank the gentlewoman for yielding me this time.

As the author of the flexitime legislation which was adopted a few years ago and which provided for the establishment of this experiment in flexitime on the part of the Federal Government, I want to pay tribute to the gentlewoman from New York (Ms. FERRARO) for bringing this legislation to the floor today. She has provided tremendous leadership in the effort to establish flexitime as a permanent part of the Federal Government.

I think that as we look back on this experiment, those of us who were here at its inception can honestly and truly say that the results have exceeded our fondest expectations. Three hundred thousand Federal employees participated in the program; 90 percent of those who participated reported that they were pleased with the opportunities it provided. And the great majority of the Federal managers who were responsible for supervising these flexitime experiments indicated that they were satisfied with the results as well.

There is an opportunity to make the conditions of employment a little bit easier for Federal employees. It helps families that are trying to deal with the problems of bringing children up in circumstances where both the father and the mother are working. And in a variety of other ways it improves the job satisfactions of Federal employees thereby leading to an improvement in productivity.

Yet if we do not enact this legislation today, the authority to continue the experiment will have expired, and one of the most promising personnel innovations in the history of the Federal Government will have ended. Consequently, we need this bill to continue the program. I would submit that not since "motherhood and apple pie" has there been an idea as meritorious as flexitime, and I appeal to my colleagues on both sides of the aisle to follow the leadership of the great gentlewoman from New York (Ms. FERRARO) in supporting this legislation so that we can continue to provide Federal employees with the opportunities which this legislation would make possible.

Mr. CORCORAN. Mr. Speaker, I intend to support this legislation, and I presently will describe my reasons for doing so, but one of our colleagues has a commitment he wants to keep, so I will defer at this point and yield 3 minutes to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Speaker, I rise today in strong support of H.R 5366. It gives me great pleasure to do so because it is not often that this body has the opportunity to consider a bill that the Congressional Budget Office says will cost little or nothing, and may even save some money.

Private business in this country is way ahead of the Federal Government with experience using alternative work schedules. Employers report they have benefited from higher usage of buildings and equipment, decreased traffic congestion, and improved attendance, productivity, and morale among their workers. The report on the 3-year Federal experiment comes to the same conclusions.

And employees do like it. Federal workers in my district have apprised me of the benefits of flexible work schedules, both to themselves and to the Government. Offices can be open longer hours to serve the public, while individual employees can modify their work schedules to attend school, take care of family responsibilities, or even just catch a less-crowded bus home. It seems to me that given this chance to raise worker morale at no cost to the Government, we should grab it.

The Office of Personnel Management wants tighter controls on this program. What they are proposing in their bill is a new layer of unnecessary regulation and extra paperwork to arrive at a conjectural cost-benefit analysis. This is not control, it is bureaucracy at its least productive.

Congresswoman FERRARO's bill provides for broad management discretion in establishing limits on the use of flexible schedules to prevent the disruption of agency operations or additional agency costs. Of course there have been some problems in the past. Of course there will be some problems in the future. But I believe those problems are best worked out at the local level by the people involved, and not by OPM in Washington.

I urge my colleagues on both sides of the aisle to join me in supporting the continuation of flexible work scheduling in the Federal Government.

Mr. CORCORAN. Mr. Speaker, I yield myself 5 minutes. Mr. Speaker, this bill permanently authorizes agencies to utilize alternative work schedules such as the 4-day, 40-hour workweek or flexitime, in which employees arrange their work hours around core hours of the day during which they must be present. This legislation creates a permanent authorization to replace the experimental program that we authorized 3 years ago and which is due to expire on March 29.

I was a strong supporter of the legislation authorizing the original experiments, and in light of the almost uniformly favorable testimony and experimental results that we have received, I feel even more strongly now that this program should be continued as a permanent management tool. The Office of Personnel Management prepared for submission to the President and Congress an interim report evaluating the alternative work schedule programs that were implemented in 1,500 organizations covering over 325,000 employees. The results were extremely favorable. Approximately 30 to 35 percent of organizations reported improvements in efficiency, 50 to 60 percent reported no change, and only 10 percent reported small decreases in efficiency. There were increases in number of hours of availability to the public, increased morale, and small reductions in travel time. More than 90 percent of employees and 85 percent of supervisors desire to continue their alternative work schedules, and more than 79 percent of experimenting organizations judged the alternative work schedule experiment a success.

As indicated by these figures, the experiment was a roaring success. However, there were some instances in which the agencies were not happy with the results of an alternative work schedule experiment, and the bill provides that if the Office of Personnel Management determines that the program is not in the best interest of the public, the Government or the employees, it can be discontinued, unless the agency has signed a labor contract stipulating otherwise. In addition, if the head of an agency finds the program disruptive or costly, he or she is authorized to take necessary corrective action.

In light of the extremely positive results, there is no question in my mind that we should continue authorization of the program. The Office of Personnel Management has indicated that it would like the bill amended. Unfortunately, it did not respond in a timely fashion to requests for amendatory language, and the bill passed the Subcommittee on Human Resources, of which I am the ranking minority member, and the full committee without the minority having the opportunity to consider the Office of Personnel Management's proposals.

Given the time-bound nature of this legislation, I feel that the Office of Personnel Management must now turn to the other body to work its will with these proposals. The program expires on March 29, and failure to enact legislation by that date would cause unnecessary hardship and distress to Federal employees, as well as unjustifiable and expensive disruptions of the Federal Government.

Mr. Speaker, I rise in support of this legislation for several reasons. First of all, I had the privilege to serve on the Committee on Post Office and Civil Service when we first inaugurated this experiment, and as is so often the case, when we approach the problem in a sensible way and we give the Government an opportunity to digest it before we enforce it in a permanent fashion, I think we generally come out with a better product. That has certainly been the case in this instance because the experimental program has won universal approval.

We have had testimony before our committee from the General Accounting Office which went into considerable analysis and in-depth evaluation of the program, and they gave it an A grade. We had an evaluation from the agencies themselves, and almost universally their recommendations to our committee were that this experimental program ought to become permanent.

Finally, we come to what has developed into a little snag at the end of the line, and that is the Office of Personnel Management. I want to dwell on that for just a moment because I think our colleagues should be aware of the procedural problem that we face and why it is that at this point, in my judgment at least, we ought to pass this legislation today and allow it to proceed along the legislative path to the Senate, where whatever adjustments the Senate might want to make could be made and then subsequently resolved in conference.

The problem we face is that this experimental program terminates at the end of this month, on March 29, so we have but 27 days in effect in which to provide a legislative reauthorization of an experimental program which will become permanent.

We have attempted for quite some time to learn what the attitude of the Office of Personnel Management was on this legislation, and we have not always been provided with the kind of efficient response that would be desirable for the committee and for the House of Representatives as a whole.

On September 29, 1978, the experimental program was enacted. In September 1981, according to that legislation, the Office of Personnel Management was to provide the Congress with an interim report on flexitime, the alternative work schedule program. OPM did not meet that deadline. Then on November 9, 1981, it did submit a report to the Congress which I am pleased to have with me here today. I would say to my colleagues that it is very interesting to note that this in-depth evaluation by the Office of Personnel Management, the interim report by the President to the Congress which we received in November of last year, was very positive. In fact, there are no negative comments about this experimental program in this report.

Mr. Speaker, I say to the Members now that this is the group that is now asking us to set aside the legislation, and I quote from the report, as follows:

> It is recommended that Congress enact permanent legislation authorizing continued use of alternative work schedules in the Federal Government with provisions to assure that agencies provide appropriate control and oversight.

So, Mr. Speaker, I think it is clear that what we have here is a circumstance where, as an afterthought, so to speak, some of the bureaucrats within the Office of Personnel Management have come down to the Congress, after our committee, our subcommittee, and our full committee has taken action, and said, "Now, we have an amendment that we would like you to consider."

What we have suggested to them, I think, is very sensible and very appropriate, and that is, in view of the time sequence involved where the program would end on March 29, with all the disruption and havoc that would be caused by that event were we not to take action, that instead what we should do is take action today as we recommend, send the measure over to the Senate, and they can make whatever adjustments they want and we can come back in conference and resolve the differences and continue this

program on which there is almost universal consensus in terms of its value.

There are problems, as I said, that OPM has with respect to one or two features. They can be addressed in the legislative process, and I would hope the Members of the House would recognize the program has met the test. It was an experimental program, and the response of those who have been part of it has been favorable. The response of management has been favorable, because, as the gentlewoman from New York has pointed out, throughout the experiment and the proposed legislation that is pending we retain for management the right to terminate this program at any time.

Mr. Speaker, I know that my friend, the gentleman from Illinois (Mr. HYDE) has a question, so I yield 3 minutes to him at this time.

Mr. HYDE. Mr. Speaker, I appreciate what my friend, the gentleman from Illinois (Mr. CORCORAN), has said, and I also appreciate the explanation of the gentlewoman from New York (Ms. FERRARO). I defer to the superior wisdom of the subcommittee which did hear witnesses and which, I am sure, is sensitive to the nuances and the problems involved in this sort of legislation.

But I am still troubled by an article which appeared on February 8, 1981 in the Washington Post by Barbara Palmer entitled "Does Anybody Labor at the Labor Department?"

□ 1400

She visited the Labor Department, which was then basking in the warmth of flexitime. She said:

Inside, the atmosphere seemed generally relaxed. At one desk, a woman was doing her knitting, while in another office a secretary seemed engrossed in her novel. Farther along I noticed another woman padding toward her office in a pair of fuzzy bedroom slippers.

Further in the article:

Employees can play their radios "so long as the use does not disturb the productivity of the employee."

And I am told that if you walk through those offices, you see television sets on people's desks. Of course I want the workplace to be happy and productive.

The article continues:

They can choose their own hours, but their bosses can set "coverage requirements" to assure, for example, that there are enough people to answer the phones at all times. They can work a 30-hour week, but only if they have built up a 10-hour credit by working overtime the previous week.

These are the sorts of innovations that might work in an environment where both managers and workers are motivated by a goal of performance—

And the article goes on to say that these performance goals are not always omnipresent when you are working for the Government. I do not know.

But I just want to know if the complaints, the distressing instances cited in Barbara Palmer's article, were taken into consideration by the committee because the people in my district do not work like this. They have to show up at 8:30 and 9 o'clock and when you call in you have to be able to get somebody to answer the phone.

Mr. CORCORAN. Mr. Speaker, perhaps I could respond to the gentleman.

Mr. HYDE. All right, fine. I am just getting warmed up, but go right ahead.

Mr. CORCORAN. Mr. Speaker, I want to tell my friend, the gentleman from Illinois, that we certainly agree, and we were just as astounded and perplexed when we read that article in the Washington Post as he was. That is one of the reasons that the legislation that we submit to the House as permanent legislation, H.R. 5366, contains the following provision:

"(2) if the head of an agency determines that any organization within the agency which is participating in a program under subsection (a) is being substantially disrupted in carrying out its functions or is incurring additional cost because of such participation, such agency head may—

"(A) restrict the employees' choice of arrival and departure time,

"(B) restrict the use of credit hours, or

"(C) exclude from such program any employee or group of employees.

The point is that we retain for management the right, when they see the kind of abuse to which the gentleman referred, to discontinue the program, and I think they should.

Mr. HYDE. Would that supersede a labor agreement, though, made with the labor union?

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

Mr. CORCORAN. Mr. Speaker, I yield myself 1 additional minute.

If there were this kind of abuse found in the course of a contract, the discontinuation of the program could not occur until the contract had ended.

Mr. HYDE. In other words, the contract between the labor union, which is one of the strongest in the country, prevails over this law we are going to pass?

Mr. CORCORAN. No; I would not say that. What I am saying is first, we have had the experience through the experiment; second, if there is an abuse, if we see disruption, if we see the kind of problem to which the reporter referred in the Washington Post, the Director of the agency, the head of the agency, could discontinue it.

Now, if we were in the final year of a contract, it could not actually be discontinued until that contract had expired.

Mr. HYDE. I am partially reassured. I thank the gentleman.

Ms. FERRARO. Mr. Speaker, I yield 5 minutes to the distinguished Chairman of the full committee, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I rise to express my support for H.R. 5366, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, and to commend the chairwoman of the Human Resources Subcommittee for picking up the ball on this legislation when it was so clumsily dropped by the administration.

Today we have an opportunity which I expect will be rare during this session. We can cast a vote in favor of legislation which has the overwhelming support of both the labor and management representatives it affects. The 3-year Federal experiment with flexible and compressed workweeks which this Congress authorized back in 1978 has been a tremendous success. Even the administration's Office of Personnel Management attested to this success in its report on the experiment received last November.

The 3-year experiment will expire the 29th of this month unless this legislation is enacted. This should be a noncontroversial matter, and under normal circumstances there should be no problem meeting the March 29 deadline. But these are not normal times, and we are not considering this under normal circumstances. There are those who are working to scuttle this legislation, and I think the record should be clear, so that the Federal employees who benefit from this program know who is responsible if this legislation is not enacted in timely fashion.

First, there is the Director of the Office of Personnel Management. At the eleventh hour, in fact on the same day the committee filed its report on this legislation, February 22, OPM's legislative recommendations were finally received. This was too late for subcommittee or even full committee consideration.

Furthermore, despite OPM's glowing report on the success of the 3-year experiment, the Director recommended drastic changes in the authorizing legislation. What were these changes? First, the Director proposes to alter the scope of bargaining under title VII of the Civil Service Reform Act, and remove the initiation or termination of these programs from the bargaining table.

Second, the Director wants to have the authority to determine when employees under this program would get premium pay. He is not satisfied that the statute establishes premium pay entitlements. He wants to do this by regulation.

A second group threatening to scuttle this legislation is those who want to seize it as a vehicle to add nonger-

mane amendments affecting the working hours of private sector employees working for Government contractors. Such a nongermane amendment would not be in order under the rules of this body. This legislation, as introduced and reported, has nothing to do with the private sector employees. Their hours and working conditions are under the jurisdiction of another committee.

The Director of OPM and the proponents of these nongermane amendments know their proposals would never pass if subjected to the normal legislative process. Let me assure them, they will never pass if tacked on to this bill. They will only insure H.R. 5366 will not be enacted, and a popular, no-cost program will end. If this happens, Federal employees will know where to place the blame.

Mr. CORCORAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 5366, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, and I want to commend the gentlewoman from New York, the subcommittee chairman (Ms. FERRARO), and the gentleman from Illinois (Mr. CORCORAN), the ranking minority member of the subcommittee, for their leadership in bringing this measure to the floor at this time.

As a long-time supporter of the alternative work schedule program, I was pleased that all of my colleagues on the Subcommittee on Human Resources supported H.R. 5366, and that the full Committee on Post Office and Civil Service favorably reported that measure by a voice vote.

H.R. 5366 would permanently authorize the AWS program. This program is currently authorized under Public Law 95-930, the Federal Employees Flexible and Compressed Work Schedules Act of 1978. However the authority for the experimental AWS program outlined in that act, expires at the end of this month on March 29, 1982.

The AWS program has afforded Federal employees the opportunity to participate in a number of work schedule designs other than the traditional 5-day, 40-hour work week. As a report prepared by the Office of Personnel Management indicated, the AWS program has been especially successful. Of the more than 320,000 employees participating in that program, 90 percent of nonsupervisory employees and over 85 percent of supervisors were satisfied with and wished to retain their AWS schedules.

Moreover, OPM found that the AWS program resulted in greater efficiency of Government operations; reductions in vehicle miles driven by those on compressed work schedules; increased public accessibility to Government services at agencies open longer because of flexible work schedules; and substantial increase in morale because of the employee's feeling that he had greater control over his worklife and more time to devote to personal, family, cultural, and social activities.

Accordingly, Mr. Speaker, I urge my colleagues to suspend the rules and pass H.R. 5366 so that what has proved to be a productive program, beneficial to both the Government and to its employees, can continue uninterrupted.

Ms. FERRARO. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), a member of the subcommittee.

Mr. HOYER. I thank the gentlewoman for yielding time to me.

Mr. Speaker, I would first like to commend the chairwoman for her timely and determined efforts in moving H.R. 5366 through committee and onto the floor in order to secure a permanent authorization of the adjusted work schedule program before it elapses on March 29.

The AWS program, sometimes referred to as flexitime, has proven to be a productive, efficient, and beneficial personnel program for the American public and the Federal work force. Since the AWS program began, Federal agencies have been more accessible to the public—especially for those individuals on the west coast who found Government offices in Washington closed due to the time differences. Employees have found that AWS offers them more control over their lives and thus enables them to be more productive and free of interruptions while on the job. In all, flexitime has proven to be a successful tool for the efficient use of personnel.

Mr. Speaker, as you well know, this has been a very difficult year for Federal employees: Minimal salary hikes, a reduction in health benefits and increases in annual premiums and deductions, large-scale reductions in force, and continued threats of further reductions in employee benefits have left the civil service demoralized and lowered productivity in all levels of government. I would hate to see a good program, a profitable program like AWS curtailed because the time ran out on it. So, Mr. Speaker, the bipartisan effort to enact a permanent authorization for flexitime is all the more important and warrants our decisive approval so that no interruption in the adjusted work schedules occurs on March 29.

It has been a pleasure for me to join my colleagues on both sides of the aisle in facilitating timely enactment of this legislation. Flextime has proven successful in this Nation's largest industries. It has been proven successful in the Federal Government. And, upon permanent authorization of AWS, we can be sure that we have taken another step toward accessible, efficient government.

Ms. FERRARO. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. SCHUMER) a member of the subcommittee.

Mr. SCHUMER. Mr. Speaker, I add my congratulations to the chairlady of our subcommittee, who has led our subcommittee so ably, not only through these hearings, but for the year and 2 months that I have served on it.

Many of us in America wonder how we are going to make our workers more productive. There are two ways to do it. One way is going to be unsuccessful, and that is to threaten, to cajole, to hit workers over the head. The other way, which is the Japanese way, which has proven so successful, is to tell our workers: We are in partnership with you, and we are going to make life easier for you, and you will be more productive for us.

That is what flexitime has proven. At a time when we seem to be putting all of the burdens that this country has on the backs of workers in general, and Federal workers in particular, we can be thankful that there is at least one program that moves us in a right and positive direction, as opposed to all the negative proposals that are coming out of this administration.

Mr. CORCORAN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I rise to oppose this because of the procedure under which it is being brought before the House. This is a serious issue. It is one that ought to be discussed in its totality. We ought to have an opportunity to at least discuss amendments. Here we are, on the 2d of March, having had our ninth vote for the year earlier today on approving the Journal, but we do not have time, somehow, to go by the regular rules of this House. The Rules Committee is available today, this bill could go before the Rules Committee today and we could have it on the floor tomorrow. We could then have the opportunity to discuss the questions that the administration has raised with it.

To listen to some speakers, you would think that this concept was universally approved. While I agree in principle with the idea of flexitime, anybody who has even persued the Washington Post article on what has happened with flexitime over at the Labor Department, or spoken with some of the employees over at the Labor Department, knows that it is not working there. There are excesses and there are abuses that have taken place within this program. We ought to be able to address it. We ought not to be afraid to take more than an hour

of our time to talk about this issue, particularly when the administration has some concerns about it. If we are going to blame the administration for the way the Government is working, we ought to give them the tools they think they need to make some of the corrections in the administrative branch.

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Ms. FERRARO. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Speaker, I rise today in strong support of H.R. 5366. Federal agencies have adopted a variety of flexible work schedules on an experimental basis over the last 3 years. The report on that experiment comes to the same conclusions that the private sector has come to in its decade-long experience; that is, that flexible work schedules result in higher usage of buildings and equipment, decreased traffic congestion, and improved attendance, productivity, and worker morale. Industries in my State have successfully utilized this concept.

Congresswoman FERRARO's bill will permanently authorize this successful program. In addition, I understand that the Congressional Budget Office states that not only will this bill not cost the Government anything, it may even save some money. We cannot pass up an opportunity that will yield benefits and save money at the same time.

This bill provides for broad management discretion in establishing limits on the use of flexible schedules to prevent the disruption of agency operations or additional agency costs. The Office of Personnel Management wants even tighter controls on this program; however, more controls would be counterproductive. What OPM is proposing is a new layer of unnecessary regulation and extra paperwork, not program control. I believe that problems are best worked out at the local level by the people involved, not by OPM in Washington.

I urge my colleagues to support H.R. 5366.

Mr. CORCORAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia (Mr. WOLF), a member of the committee.

Mr. WOLF. Mr. Speaker, I rise in strong support of this bill.

I make three points: First, if there is a problem in the Department of Labor, let us change the management of the Department of Labor.

Second. The main blame with regard to where we are today is with the Office of Personnel Management. They have been asked time after time after time to come forward with their comments, and they have not.

Third. For those of my colleagues who are undecided, I will tell you that I think this bill is really a very important bill for the family. There are many situations where the mother will leave early in the morning and the father will be there when the son or daughter leaves for school and then there will be a parent there when they come home at the end of the day.

I happen to believe that it is extremely important and I would just urge all my colleagues to strongly support this bill. It is a good program. It works well.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 5366, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, of which I am an original cosponsor.

During hearings before the Post Office and Civil Service Committee's Subcommittee on Human Resources, I listened carefully to those witnesses expressing their views on the alternative work schedules (AWS) program authorized as an experimental program in 1978. Those hearings demonstrated clearly that management, employees, and academic experts rate the AWS program as very successful. Indeed, in a September 1981 report to Congress, the Office of Personnel management stated that "more than 90 percent of employees and more than 85 percent of supervisors were satisfied with and wish to retain their AWS schedule." More than 1,500 Government organizations with over 325,000 employees participated in the AWS experiment. Supported unanimously by the Subcommittee on Human Resources, H.R. 5366 was reported by the Committee on Post Office and Civil Service on February 10, 1982.

The AWS program has permitted Federal employees to utilize work schedule designs which depart from the traditional 5-day, 40-hour work week. While new to the Federal Government, flexible work schedules, a variety of arrangements in which fixed times of arrival and departure are replaced by core working hours and expanded arrival and departure bands, and compressed schedules, such as the 10-hours-per-day, 4-day workweek, are increasingly common in the private sector. OPM reported that like the private sector, the Federal Government also benefited from alternative work schedules. The AWS experiment, OPM noted, resulted in greater efficiency in Government operations, reductions in total vehicle miles per week and increased use of mass transit and car/van pooling, reduced building energy consumption on nonwork days where compressed schedules were used, and increased public accessibility to Government services at agencies open longer because of flexible work schedules.

What was of critical significance in the OPM report, however, a finding corroborated by the testimony of employee association representatives, was the marked improvement in employee morale as workers were allowed increased control over the matching of interests outside the job with work requirements. Under AWS, employees are able to spend more time with their families, more effectively attend to their household responsibilities, and better structure their leisure time. Because working spouses are able to stagger their arrival and departure times, the AWS program means that at least one parent is able to see their child off to school in the morning, and be there at home when the child returns.

Mr. Speaker, one example of the success of the Federal Government's AWS program is evidenced at the U.S. Geological Survey's facility in Reston, Va. The Geological Survey's own independent evaluation of its AWS program reached much the same conclusion as the OPM report concerning the benefits of alternative work schedules. As one Geological Survey employee stated:

> The single most important factor regarding the use of the variable work schedules is the increased morale factor, and that management is giving employees the feeling that they are being trusted to use good judgment in planning their work day.

Mr. Speaker, both employers and employees vigorously support the alternative work schedule program, a program which has demonstrated its ability to increase Government efficiency and markedly boost employee morale. Because the current authority for the AWS program expires on March 29, 1982, I urge my colleagues to support the motion to suspend the rules and pass H.R. 5366.

Ms. FERRARO. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, let me first of all commend my colleague for the leadership she has put forth in this legislation.

I support this legislation very strongly and I wish to commend the committee.

I have a short colloquy that I would like to have with the chairman of the committee.

May I ask the gentlewoman, what assurances can the committee give that title VI of the GAO Policy and Procedures Manual for Pay, Leave and Allowances, will be enforced?

Ms. FERRARO. May I say to the gentleman from Iowa (Mr. BEDELL), before I answer, let me just say that I do appreciate because the gentleman did come before our committee and testify and his contribution to the work done by the committee was invaluable. As a result of the testimony of the gentleman from Iowa, in our report the committee directs OPM to insure a regulation that necessary time accounting systems are in place.

The committee will be reviewing conformance with that requirement during the oversight process.

Mr. BEDELL. I thank the gentlewoman.

Does the committee consider the accountability of time recording methods to be one factor to be considered regarding the effect of flexible time schedules on the efficiency of Government operations?

Ms. FERRARO. Absolutely. That is another matter which is specifically addressed in the report under the title of "Accountability" on page 7.

Mr. BEDELL. I thank the gentlewoman very much.

I should say that as far as I know I am the only Member of Congress who goes out and makes unannounced visits to various agencies of Government. I can tell you that, indeed, there are problems in the Department of Labor, because that is one of the places I have visited, but it is not the only one I have visited. There are a great number of places.

I find that there are a great many cases where people simply are not signing in or signing out under the current system.

As I met before the subcommittee, I urged them that the GAO require a system of signing in and signing out in order that when I sign in, the next person cannot sign in prior to the time I signed in, so that we have this accountability.

This does not require time clocks. It does not require anything very major; but in my opinion, unless we mandate that, indeed, there is going to have to be accountability where we see that people are working the full number of hours that they are supposed to work, there is going to be continual objections to flexitime, which I support. I support flexitime very, very much. I think it is imperative that we try to see that there is sequential accounting procedures as well as a way to avoid potential future problems.

Clearly, flexible time schedules and compressed work schedules should be permanently authorized for Federal employees. However, if appropriate accountability is not developed and implemented by GAO and OPM, additional congressional oversite may be needed which could very likely be followed by restrictive legislation. I urge GAO and OPM to consider sequential accounting procedures as a way to avoid this potential problem.

Thank you, Mr. Speaker.

Mr. CORCORAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Speaker, I have listened with considerable interest to the debate here this afternoon on this legislation. From some of the comments, you would think we are doing something really new and unique in the field of personnel management; but I would like to remind you that there are 10 million full-time workers in the private sector who enjoy flexible work schedules. These variations in fixed time have evolved as a means of coping with social change, particularly the dramatic increase of women in the work force. I think that, as my colleague, the gentleman from Virginia (Mr. WOLF) pointed out, is one of the most important aspects of this whole consideration.

I rise in support of the adoption of this legislation and trust that my colleagues will vote for it later this evening.

Mr. Speaker, I would like to express my strong support for H.R. 5366, which would permit and encourage the continuation of the flexitime program for Federal employees. In the past year, I have met with a number of Federal workers and their supervisors who report that flexible work schedules have worked well and should be continued. The adoption and implementation of flexible hour scheduling has enabled employees to gain some control over their hours of work. By adjusting their work hours, they can meet their personal needs and preferences and still maintain their commitment to their job.

There is nothing complex about this program, the concept is quite simple. Flexible hours are those hours that proceed and follow the set hours and the time in which employees can choose their own times of arrival and departure. Flexitime may not be used by an employee to reduce hours of work, nor can it be used by an employee to relieve another employee from fulfilling a basic workweek requirement. Flexitime merely enables individuals to adjust their schedules so they can take care of personal matters like child care responsibilities or make contributions to the community by engaging in activities such as Scouting or youth sports teams. In addition, there are many elderly and handicapped people who also benefit from flexitime because they can travel to work more easily outside the hours of peak traffic.

Mr. Speaker, flexible schedules have proven to have other important aspects that benefit both employee and employer. There is very convincing evidence which indicates that this type of work scheduling has increased productivity, reduced the use of sick leave and tardiness, and has increased employee morale. In many instances, the hours of service to the public has been extended because many individuals have chosen to work earlier or later hours than the normal 9 to 5 schedule. By carefully arranging work shifts, employers can operate longer hours, resulting in increased service to the public.

By giving the supervisors this responsibility, the program has operated in a way which the employee's choice of arrival and departure does not interfere with the duties and requirements that are required of that position.

Everyone benefits from flexible work schedules. The Federal Government benefits from the program because the increased morale has led to an increase in productivity. If we want Federal workers to be effective and efficient, we must give them our support by allowing this program to continue.

The general public also benefits from this program because flexible work schedules have increased operational hours and has meant greater accessibility to services being offered by the various agencies. Another advantage of flexitime is that there has been some reduction in the number of workers who travel during peak traffic hours. This has resulted in less traffic congestion and air pollution from auto emissions of stop and go traffic.

Most importantly, the employees who participate in flexitime have an opportunity, to some extent, to determine the conditions and circumstances of their own employment. In light of the anxiety and instability created by the reduction-in-force process, the problems surrounding the health benefits program, and the extremely low cost-of-living increase given Federal workers, it is critical that we continue this important program.

I strongly support this program and I appeal to my colleagues to support Federal employees, their supervisors, and the general public, by voting in support of H.R. 5366.

Mr. CORCORAN. Mr. Speaker, I yield myself the remaining time at my disposal.

Mr. CORCORAN. Mr. Speaker, let me just go over a couple points that have been raised, and they are two.

First, the significance of the bad experience that the experimental program has had in the Department of Labor and, second, the way in which under the time constraints that we have I believe we can properly address the concerns that the Office of Personnel Management has indicated.

No. 1, I think, as I said at the outset of this debate, that having taken the route of an experimental program first, we were in a position to learn what problems there might be with alternative work schedules and we have learned that. That is why the legislation before us contains, as I indicted in my colloquy with the gentleman from Illinois (Mr. HYDE) the kind of control, the kind of tools for management, so that if you have a circumstance, a regrettable circumstance like that reported with respect to the Department of Labor, there are two courses of action that can be taken.

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No. 1, the Director, the Secretary of the Department of Labor, can cancel the program.

No. 2, the Office of Personnel Management can come forward and cancel the program.

I would submit that that is what should have been done in the last administration with that unfortunate example of what abuse we found.

No. 2, with respect to addressing the concerns of the agency, if we were to try at this late date, some 27 days before the program expires, the experimental program, we would simply not have the legislative time, particularly given the snail's pace of this second session of this Congress in order to take final action.

There is a consensus in the administration, there is a consensus in the Senate, there is a consensus in the House, that the experiment has been a good one. There has been concern about one or two particular additional management tools. I think we can address those once the Senate takes action and once the matter comes back to Congress.

I would hope that for those who want to kill the program, take the action that you choose. You are elected to do that, but if you are in favor of the program, if you want to see this kind of alternative work schedule which did not start with the Government, which did not start with this committee, but started with free enterprise before us, then the way to proceed, it seems to me, is to vote yes on this bill.

Ms. FERRARO. Mr. Speaker, I yield myself such time as I may consume.

I would first off like to thank the ranking member of the subcommittee for his cooperation and his leadership in the work that was done on this bill.

I would also like to mention that in addition to all the benefits that we have seen come from this experiment, and there are many—reduced absenteeism, reduced tardiness, improved morale, longer hours of service to the public—the incredible thing about it is that it has not cost the Federal Government additional money and will not cost additional money.

I think it is a good program. I would urge my colleagues to support its enactment into law.

● Mr. LEHMAN. Mr. Speaker, I would like to express my strong support for the passage of H.R. 5366, the Federal Employees Flexible and Compressed Work Schedules Act of 1982.

The Federal Employees Flexible and Compressed Work Schedules Act of 1978, which authorized Federal agencies and employees to experiment with flexible and compressed work schedules, will expire on March 29. However, in their report on this 3-year experiment the Office of Personnel Management found that the program had been successful, and recommended that Congress enact legislation to allow its continuation.

H.R. 5366 would permanently authorize a program that would permit but not require agencies to use flexible and compressed workweeks. There would be broad management discretion to limit the use of alternative work schedules to prevent agency disruption or increased costs, and coercion concerning employees, right to participate in alternative work schedules would be prohibited. H.R. 5366 authorizes the program to be terminated, subject to collective bargaining agreements, if it is found that the program is not in the best interests of the public, the Government, or its employees.

Not only does the bill contain adequate protections for the public, the Government, and the employees using alternative work schedules, but most importantly it would actually result in many positive benefits for all three of these groups. There would be an increase in the efficiency of Government operations, and extended hours of service to the public. The quality of life for the employees involved would be improved, because they would be given the flexibility to better meet both their family and work responsibilities.

The Congressional Budget Office has stated that passage of this legislation would result in "little cost, and perhaps some initial savings." I would therefore like to express my strong support for the passage of this bill that would help our Federal employees, while at the same time improving Government operations and service to the public.●

● Mr. DANNEMEYER. Mr. Speaker, today, as the House takes up under suspension H.R. 5366, I wish to address this issue of the alternative work schedules program. The 3-year experimental program expires on March 29 and Congress is faced with making it permanent, the reason H.R. 5366 is before us.

There is little controversy over the issue of flexitime, as the experience of the past 3 years has in general supported the arguments of its proponents; namely, that allowing flexible schedules would improve employee morale, make for more sensible logistics and day-to-day operations, and, thereby, help enhance agency productivity. Although there have been exceptions, they have not seriously detracted from the overall positive reaction to AWS.

As a result of the desire to continue the flexitime program on a permanent basis, and because there was no alternative that had been presented in time to be considered, given the March 29 deadline, the House Post Office and Civil Service Committee did on February 10 report out H.R. 5366. In neither full committee nor the Subcommittee on Human Resources did this bill have more able, diligent, and energetic support than that provided by the two ranking members of the subcommittee, Chairwoman GERALDINE A. FERRARO for the majority, and my good friend and colleague from Illinois, TOM CORCORAN, for the minority. They both deserve to be commended and congratulated on their very fine efforts, only one measure of which was the unanimous vote in favor of passage of H.R. 5366.

My only regret is that we were not in timely possession of certain amendments intended to insure and strengthen management controls over the flexitime program. For, though the provisions contained in H.R. 5366 are acceptable, I feel there is room for improvement in the area of designating ultimate decisionmaking authority. I believe that such authority ought to be vested in the chief administrative officials of departments and agencies.

Legislation which would incorporate these provisions might be introduced in the Senate this week. If subsequent action by the Senate sustains this revised version of flexitime, resulting differences to be ironed out during conference, I would urge my colleagues to carefully consider which proposal more adequately deals with the management controls necessary for the successful implementation of flexible work schedules.●

● Mr. BARNES. Mr. Speaker, I strongly support H.R. 5366, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, which permanently authorizes alternative work schedules, commonly known as flexitime, in the Federal Government. Congress must pass and the President must sign this vital legislation before March 29, the date on which the current experimental flexitime program expires.

The use of compressed work schedules, varied days in the workweek and flexitime have been very popular among the more than 320,000 employees in 1,500 Federal organizations that participated in the experimental program. H.R. 5366 permits, but does not require, Federal agencies to develop flexitime. Of the agencies that did participate, 83 percent in the original experiment have expressed a desire to continue.

H.R. 5366 would enable Federal labor organizations to share responsibility with management for constructing flexitime programs by placing flexitime in the collective bargaining process. At the same time, Federal agencies will retain broad discretion to control the impact of flexitime on agency operations and costs. The Office of Personnel Management (OPM) has been given authority to terminate programs it deems not in the public interest.

Members of Congress have been apprised by OPM, however, that it would like to restrict flexitime. At hearings before the House Post Office and Civil Service Subcommittee on Human Resources, chaired by our colleague GERALDINE FERRARO, OPM representative Jim Morrison said that flexitime should be permitted only "in those limited and specific circumstances when they will improve productivity or provide greater service to the public, and only when their use will be cost effective."

OPM's position ignores flexitime's highly positive impact on employee morale. The General Accounting Office (GAO) recently reported that RIF's and furloughs, real or prospective, have taken a terrible toll and have led to measurable losses of productivity in some cases. In my view, abandoning or limiting flexitime under these circumstances would be extremely damaging to the effective operation of the Federal Government.

This legislation means a great deal to Federal employees. They believe that it will help them do a better job, and it will help keep them on the job. Flexitime will help the working mother with young children and the senior employee who is not ready to retire but cherishes 3-day stretches away from work. Flexitime treats Federal employees like the professional people they are, and I urge immediate passage of H.R. 5366.●

● Mr. MOFFETT. Mr. Speaker, I would like to take this opportunity to express my strong support for H.R. 5366, the Federal Employees Flexible and Compressed Work Schedules Act of 1982. As a member of the Congresswomen's caucus, I am aware of the importance of such legislation—which would allow greater flexibility in integrating work schedules with family life—for women in the Federal work force.

The Federal Government's 3-year experiment in alternative work schedules was a great success. In addition to increasing the efficiency of the Government's operations, it raised worker morale substantially. At a time when the bureaucracy is under heavy attack for insensitivity, inefficiency, and mediocrity, innovations such as these can go a long way toward making Government work again. By humanizing the bureaucracy, and making it responsive to the needs of its employees, the flexitime legislation we are considering today will undoubtedly improve the quality of Government services. I urge my colleagues to support the bill.●

● Ms. OAKAR. Mr. Speaker, I rise in support of Chairwoman FERRARO's bill, H.R. 5366, that would extend on a permanent basis the use of flexitime and a compressed workweek schedule for employees of the Federal Government. H.R. 5366 is needed to assure the continuation of this very successful experiment in alternative work schedules because existing authorization is due to expire less than a month from now, on March 29, 1982.

Flexitime and compressed work weeks have proven to be very popular among the 325,000 Federal employees who have participated in the program. These employees have been given a greater sense of responsibility in managing their own working hours. The result has been a dramatic improvement in morale and productivity.

Alternative work schedules have been of particular usefulness to working mothers who have been able to coordinate their working hours with their family responsibilities.

Mr. Speaker, this legislation can extend on a permanent basis the positive results achieved thus far with flexitime and compressed workweeks. I congratulate Chairwoman FERRARO for the fine work she has done on H.R. 5366 and urge my colleagues to support this bill.

Thank you.●

● Mr. KOGOVSEK. Mr. Speaker, I rise in support of the bill. The Federal Employees Flexible and Compressed work Schedule Act of 1978, established a 3-year experiment with alternative work schedules. The administration has reported the success of the program. According to the Office of Personnel Management, alternative work schedules: Increased the operational efficiency in 30 to 35 percent of the agency experiments, increased the use of mass transportation and car/van pooling by employees, and provided most employees with a greater feeling of control over their work lives and provided them with more time to devote to personal, family, cultural, and social activities. I might add that over 90 percent of nonsupervisory employees and over 85 percent of supervisors were satisfied with and wish to retain their alternative work schedules.

I urge my colleagues to support this legislation.●

● Mrs. SCHROEDER. Mr. Speaker, I rise in strong support of H.R. 5366, the Federal Employees Flexible and Compressed Work Schedules Act of 1982. This bill provides permanent reauthorization for alternative work scheduling (AWS) in the Federal Government. The current authority expires in less than 4 weeks.

In 1975, the Ford administration proposed enactment of legislation to permit experimentation with flexible and compressed work schedules by waiving the existing legal limitations on them. In 1978, Congress enacted Public Law 95-390 which established a 3-year experimental program.

The experiment has been very successful. There are 1,500 Federal installations, involving 325,000 Federal employees, that have used flexible scheduling. Many use the 4-day, 10-hour week. Some allow employees to bank up to 10 hours in a biweekly pay period, if they work more than the standard 8-hour day. Others permit 9-hour days, with 1 extra day off every 2 weeks. The program has improved employee morale by offering employees more control over their work schedules and lives. At the same time, it has benefited the Government by producing documented reductions in tardiness, absenteeism, and use of sick leave. Most importantly, the public has been better served because agencies in flexitime are often open more hours each day.

So, what we have is a highly successful, productivity enhancing program which is about to die. We should band together to keep it alive. Despite the fact that the Office of Personnel Management (OPM) issued a positive evaluation and recommended permanent reauthorization, the administration sent up legislative proposals after the committee had reported out the legislation. The legislative proposals are of the "kill it with kindness" variety. They add unnecessary and costly regulatory burdens to the program. We have enough controls on flexitime now.

Use of alternative work schedules originated in the private sector, where today more than 9.5 million workers are on flexible and compressed schedules. The reason for the growth of AWS in the private sector is that a carefully implemented alternative work schedules program provides a win/win situation for both employers and employees. It is a low cost way to improve productivity and increase employee morale since it does not require changes in the work process or technology. It is a change that requires little or no capital investment, yet has tremendous payoff for the organization.

Use of alternative scheduling is no excuse for sloppy management inside or outside the Federal Government. In fact it should encourage managers to review their management style. To assure a successful program, managers must do careful planning and insure that accountability is maintained. Employees are still required to put in their full 40-hour week. They are allowed, however, greater flexibility in the arrangement of their workday or workweek. Good management should have means, other than physical supervision, to insure that employees do their work.

Flexible work hours in the Federal Government does not mean that employees wander in and out of their offices at will. Managers must assure that there is adequate coverage at all times. Use of flexible hours helps them to have more coverage at all times, but use of flexible hours helps them to have more coverage during

peak periods. Having the office open longer hours permits greater contact between headquarters and west coast offices that must do business with each other.

Like the experimental program, H.R. 5366 retains protections for the Government. The bill allows the Office of Personnel Management or an agency to terminate a program if it is determined that AWS is not in the best interest of the public or the Government, subject to collective bargaining agreements. During the Federal experiment 85 to 1,500 Federal programs were terminated in 13 departments or agencies. More than half of these were in two agencies, the U.S. Army and the Veterans' Administration. Yet, termination may not be the best method of dealing with abuse. Peer pressure on those who abuse the program can be an effective way to insure good faith compliance.

The bill furthermore specifies that if an agency head finds that the AWS disrupts its functions or results in additional costs, the agency head may restrict the employee's choice of arrival and departure time, restrict the use of credit hours, or exclude from the program any employee or group of employees.

In its testimony on H.R. 5366, the General Accounting Office testified that this bill gives the agency head and OPM the authority to terminate or restrict the program if there is a negative effect. It was the opinion of the GAO that the initial data indicates that AWS has not hurt Government efficiency and in many cases has improved it, at the same time that it has boosted employee morale. For that reason they recommended the enactment of H.R. 5366, which contains appropriate safeguards for the agency and OPM.

The Federal AWS experiment expires on March 29 unless it is reauthorized. The program has won widespread support throughout the Government. According to OPM's interim report, 90 percent of the employees and 85 percent of the supervisors using AWS wish to retain alternative work scheduling. I have heard from hundreds of employees who favor continuation of AWS. Finally, every major Federal employee union has endorsed the bill.

Flexitime increases employee morale and productivity. It has the potential for improving labor-management relations and taps the huge employee potential for improving productivity.

I commend the gentlelady from New York (Ms. FERRARO) for introducing this legislation and her subcommittee for its full support. I urge my colleagues to vote favorably on H.R. 5366. I am convinced that it contains adequate protections for both the Government and employees and should be permanently authorized before the program terminates on March 29.●

Ms. FERRARO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentlewoman from New York (Ms. FERRARO) that the House suspend the rules and pass the bill, H.R. 5366, as amended.

The question was taken.

Mr. LUNGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Ms. FERRARO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill, H.R. 5366, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

## MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

## GOLD MEDAL FOR QUEEN BEATRIX

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 348) to provide for the awarding of a special gold medal to Her Majesty Queen Beatrix in recognition of the 1982 bicentennial anniversary of diplomatic and trade relations between the Netherlands and the United States.

The Clerk read as follows:

H.J. RES. 348

Whereas Dutch antecedents in the United States go back to the early 1600's when a few doughty Dutch began to explore and settle Manhattan Island and the Hudson River Valley;

Whereas the Netherlands became the first nation in 1776 to salute the flag of the new American Nation;

Whereas John Adams, first United States Minister to the Netherlands and second President of the United States, signed a mutually advantageous Treaty to Amity and Commerce with the Netherlands in the decisive year of 1782;

Whereas the Netherlands was the source of a series of needed loans starting in 1782, which eventually totaled the equivalent of $12 million;

Whereas it is with the Netherlands that the United States has its longest peaceful and unbroken relationship;

Whereas the year 1982 will mark the two hundredth anniversary of the opening of diplomatic relations with the Netherlands;

Whereas these two centuries of official relations have been based on exemplary friendship, mutual trust and respect, and a perceived interest in practical forms of cooperation;

Whereas the thirty-six years of vigilant peace since the end of World War II have seen a remarkable growth in the United States-Dutch relationship; and

Whereas, in keeping with the spirit and content of the Treaty of Amity and Commerce, the United States and the Netherlands have become active partners in defense and commerce: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President of the United States is authorized to present, on behalf of the Congress, to Her Majesty Queen Beatrix, a gold medal of appropriate design in recognition of the two hundredth anniversary, in 1982, of the establishment of diplomatic and commercial relations between the Governments of the United States and the Netherlands. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed $22,000 after November 1, 1981, to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery overhead expenses, and the gold medal. The appropriation used to carry out the provisions of this subsection (a) shall be reimbursed out of the proceeds of such sales.

(c) The medals provided for in this section are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. WYLIE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 348 would authorize the presentation of a gold medal to Her Majesty Queen Beatrix of the Netherlands in recognition of the Bicentennial of diplomatic and trade relations between the Netherlands and the United States. I am proud to be one of the 226 cosponsors of this legislation.

The ties between this Nation and the Netherlands go back more than 200 years. Every schoolchild knows the story of the purchase of Manhattan Island from the Indians for $24 by Peter Minuet. This purchase led to the founding of New Netherlands, which later became New York. In 1776, as

our forefathers began their struggle for independence, the Netherlands became the first nation to recognize the new nation when one of their warships saluted our flag.

The formal beginning of our unbroken 200-year history of friendship, mutual trust, and respect started when the two nations entered into a Treaty to Amity and Commerce in 1782.

This legislation will result in no net cost to the taxpayer. The cost of the gold medal will be reimbursed from the sale of bronze duplicates.

Last week the Subcommittee on Consumer Affairs and Coinage heard the testimony of the eloquent and distinguished gentleman from Michigan (Mr. VANDER JAGT). His remarks persuaded the subcommittee to unanimously pass this resolution so that we could bring it to the House floor today.

Queen Beatrix will be visiting the United States next month and she will be addressing a special joint session of Congress. I urge my colleagues to pass this legislation today so that we can have an opportunity to have the medal prepared in time for her appearance before the Congress.

Mr. WYLIE. Mr. Speaker, I yield myself 2 minutes.

Mr. WYLIE. Mr. Speaker, I rise in support of House Joint Resolution 348. I am a sponsor of the bill, as are most Members of the House of Representatives. This substantial support, I might say, Mr. Speaker, is a tribute to the leadership, persuasiveness and tenacity of the measure's principle sponsor, the gentleman from Michigan (Mr. VANDER JAGT), who I may say is a doughty Dutchman himself, and I want to compliment him for his success in getting this bill to the House floor so expeditiously.

This resolution, as has been mentioned, does provide for a gold medal to honor 200 years of a Dutch-American pact of amity and commerce. That record of friendship is the longest unbroken peaceful relationship of its kind with the United States of any foreign power. As stated in the resolution, the Dutch have made significant contributions to the United States over the course of more than 370 years.

□ 1430

They were early explorers and settlers in the Hudson Valley. The Netherlands was the first nation to salute the U.S. flag. It was among the earliest to grant diplomatic recognition to the United States when it became a nation, and in 1782 it was the source of much needed financial assistance for the new American Nation.

During the celebration of 200 years of treaty relations between our two nations, Queen Beatrix of the Netherlands will visit the United States. As one part of her visit, she will address a joint session of Congress on April 20. House Joint Resolution 348 is an important part of that visit. With timely action by the Congress, President Reagan will be able to present on behalf of our Nation a gold medal to the Queen to commemorate the 200th anniversary and commercial relations between the Netherlands and the United States.

Mr. Speaker, I might say that the President spoke on Dutch-American Friendship Year Celebration on February 17, 1982, and I submit the President's remarks at this point in the RECORD:

[Message of the President, Feb. 17, 1982]

DUTCH-AMERICAN FRIENDSHIP YEAR, 1982

April 19, 1982 marks the two hundredth anniversary of the establishment of diplomatic relations between The Netherlands and the United States of America. This is the United States' longest unbroken, peaceful relationship with any foreign power.

From the very beginning, Americans and Dutch were drawn together by mutual ideals. As early as 1776, the rebellious American colonies saw the republican Netherlands as a potential ally, while the Dutch viewed the North American colonies' struggle for independence as a parallel to their own historical struggle for freedom. The widespread sympathy and goodwill in The Netherlands for the success of the American quest for freedom was illustrated by several Dutch gestures that boosted colonial morale:

On the Dutch island of St. Eustatius in the Caribbean, the First foreign salute to the American flag took place on November 16, 1776; John Paul Jones was received as a hero in Amsterdam in 1779 when he landed with two captured British ships; and the Dutch Government entered into secret negotiations with the Continental Congress, starting in 1778, on the draft of a Treaty of Amity and Commerce.

But, most important, on April 19, 1782, John Adams was admitted by the States General of the Dutch Republic as Minister of the United States of America, thus obtaining the second diplomatic recognition of the United States as an independent nation. Adams also succeeded, on October 8, 1782, in signing the first Treaty of Amity and Commerce between the two countries. This shortly led to a series of vital loans totaling the equivalent of 12 million dollars. This recognition of the United States as an independent nation can be regarded as a culmination of our country's efforts to take its rightful place in the world community of nations as a sovereign state.

In the nineteenth century Dutch immigrants and capital continued to play an important role in the development of our young nation. A considerable part of upstate New York was developed by investments from The Netherlands, and the vast Louisiana Purchase was financed through loans placed in Amsterdam. Washington Irving wrote of the Dutch settlers of the Hudson Valley, and immigrants from Holland founded many new towns on the frontier of the 1840s in Iowa, Michigan and Wisconsin. The Netherlands helped finance much of the building of the great American railway systems which opened up the West and contributed three U.S. Presidents of Dutch descent—Martin Van Buren, Theodore Roosevelt, and Franklin Delano Roosevelt.

During the dark days of World War II, America was able to return this early support for our nationhood. Thousands of our young men are buried on Dutch soil, having given their lives in the liberation of The Netherlands.

Today, the United States and The Netherlands share a joint commitment to mutual security and the defense of freedom through our NATO partnership. Our close economic ties reinforce our common philosophic and political goals, and The Netherlands is now the top foreign investor in the United States—a clear sign of Dutch confidence in our country and its future.

While the particular expression of our policies and actions has not always been identical, the theme of common interests and shared ideals has been a hallmark of the continuously peaceful and productive relationship between the United States and The Netherlands for two hundred years.

In recognition of this long and fruitful relationship between our two countries, I call on all Americans to join with citizens of The Netherlands in observing 1982 with appropriate ceremonies and activities to recall the long-standing friendship and shared values of our two peoples.

RONALD REAGAN.

Mr. WYLIE. Now, Mr. Speaker, in urging support of the joint resolution I would like to yield 2 minutes to the distinguished principal sponsor of the joint resolution, my friend, the gentleman from Michigan. (Mr. VANDER JAGT.)

Mr. VANDER JAGT. Mr. Speaker, I thank the gentleman for yielding and for his kind words, and for his leadership on behalf of the joint resolution.

Mr. Speaker, I rise in support of House Joint Resolution 348, and to thank and commend the distinguished chairman of the Subcommittee on Consumer Affairs and Coinage for his leadership on this very important resolution, and to thank each and every member of that subcommittee.

As the chairman and the distinguished gentleman of Ohio have explained, this would authorize the President of the United States to present a gold medal to Queen Beatrix of the Netherlands. In a larger sense, however, it is an authorization of a gold medal of the American people to all of the people of the Netherlands in recognition of 200 years of continuous, unbroken friendship.

I hope all my colleagues join in recognizing this very unique and special friendship and relationship by voting overwhelmingly for the joint resolution.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Michigan for his contribution, and I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, it is a pleasure to rise in support of House Joint Resolution 348, to authorize a gold medal to be presented to Queen

Beatrix of the Netherlands on behalf of the Congress.

The 26th District of New York, which I am privileged to represent, was the site of many of the earliest Dutch settlements in the New World. Many place names, particularly in Rockland County, N.Y., reflect the heritage of their earliest settlers.

According to the Rockland County Data Book:

In 1609, Henry Hudson sailed up the Hudson and dropped anchor (it is now believed) in Tappan Zee, off the spot that was later called Piermont. * * * David Pietersen DeVries was a Dutch navigator and an official in the Dutch East India Company, who, around 1640, bought a tract of land from the Indians in the area of what is now Tappan, and called it Vriesendael. Here he hoped, with emigrants from New Amsterdam, to found a permanent settlement where the inhabitants could trade peacefully with the Indians and get a living from the soil for themselves, their families, and their animals.

His dream was shattered three years later when the Indians, enraged at being constantly defrauded by some of the settlers, attacked the settlement and reduced it to ruins * * *

Two or three other settlements were founded after that, but it was not until 1675 that permanent colonization of the land began. In that year a young Dutch immigrant, Harmon Dowsa (whose family name of Talma has been variously spelled Talman, Taulman, and Tallman) established a home in Nyack. Eight year later, he induced several families to move into the area; this was the County's first permanent settlement.

Beyond the historic ties between the New World and the Netherlands, the warmth of the relations between our Governments over the years is worthy of approbation. The Dutch were the first to recognize our new Nation after the outbreak of the Revolution, and these friendly ties have never been broken.

Mr. Spencer, it is altogether fitting that we honor the Dutch nation by presenting a gold medal to Queen Beatrix on the occasion or her forthcoming visit to the United States. I commend the efforts of the gentleman from Michigan (Mr. VANDER JAGT) in sponsoring this bill and the cooperation and the efforts of the gentleman from New Jersey (Mr. ANNUNZIO), the distinguished subcommittee chairman and the ranking member of the subcommittee, the gentleman from Ohio, Mr. WYLIE, in bringing this bill before the House, in recognition of the 1982 bicentennial anniversary of diplomatic and trade relations between the United States and the Netherlands.

My colleagues may be pleased to learn that in April 1982, at the same time that Queen Beatrix will be visiting the United States, the American Women's Club of The Hague, and the bipartisan Committee of the Netherlands will be commemorating the bicentennial of John Adams' presentation of his credentials as the first U.S. Ambassador to The Hague.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Joint Resolution 348 authorizing a gold medal for Queen Beatrix.

This is a fitting tribute to the gracious sovereign of the Netherlands who will be addressing a joint session of Congress on April 20. 1982 marks the 200th anniversary of friendship between the United States and the Netherlands. In 1782 our two nations concluded a treaty of trade and friendship which was founded on the ideals of political and religious liberty. This was a sign of the strong interest the Dutch Republic had in the young American Republic. Dutch traders provided the colonists with arms and ammunition and the first official honors paid to the new flag of the United States in 1776 occurred when the Dutch saluted the ship of John Paul Jones. What John Paul Jones said then in response to the honors holds true today 200 years later:

Let but the two Republics join hands and they will give Peace to the World.

Now, 200 years later and 30 years after her mother, Queen Juliana, addressed the U.S. Congress, we will have the good fortune to receive Queen Beatrix and reaffirm the close, historic ties between the Netherlands and the United States. I might add that I had the honor to meet with Her Majesty in January in The Hague when she received the delegations from the U.S. Congress and the European Parliament when we were meeting in the Dutch capital. I am now happy that we in Congress will be able to return the kind hospitality of Queen Beatrix and continue with her what was an extremely useful and interesting dialog.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his contribution.

● Mr. COURTER. Mr. Speaker, I rise in support of House Joint Resolution 348 to award a gold medal to the people of the Netherlands when Queen Beatrix visits the United States in April during her 5-day state visit.

Three Presidents—Martin Van Buren, Theodore Roosevelt, and Franklin D. Roosevelt—had Dutch ancestors. William Penn, another major political figure in American history, had family links to the Netherlands.

The people of the Netherlands are a proud and hard-working people and were among our most progressive settlers. The Netherlands and the United States have stood together for 200 years.

Dutch-American bicentennial observance gives us an opportunity to reflect on the contributions of the Dutch-Americans and to expand on the two centuries of diplomatic and trade relations which have benefited the Netherlands and the United States so greatly.

I urge my colleagues to support this measure.●

● Mr. DERWINSKI. Mr. Speaker, I rise in support of House Joint Resolution 348, to award a special gold medal to Queen Beatrix to mark 200 years of diplomatic and trade relations between the Netherlands and the United States.

Her Majesty, Queen Beatrix, will address a joint session of Congress on April 20 during her state visit to the United States.

The Netherlands-United States bicentennial observance offers an appropriate opportunity to focus attention on the fact that people of Dutch descent have contributed immensely to our American heritage. For 200 years, the Netherlands and the United States have stood together in war and in peace.

The Dutch were among the earliest and most progressive settlers of Cook and Will Counties in Illinois. My lovely wife Pat is of Dutch ancestry.

During the Dutch-American bicentennial observance, we as Americans can prove we appreciate and want to expand on the two centuries of friendship which have benefited the Netherlands and the United States so greatly.●

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO) that the House suspend the rules and pass the joint resolution, House Joint Resolution 348.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## NAMING A NUCLEAR-POWERED AIRCRAFT CARRIER U.S.S. "HYMAN G. RICKOVER"

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 4977) to direct the President to name the next *Nimitz*-class nuclear-powered aircraft carrier as the U.S.S. *Hyman G. Rickover.*

The Clerk read as follows:

H.R. 4977

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President shall name the next Nimitz class nuclear-powered aircraft carrier named after the date of the enactment of this Act as the United States Ship Hyman G. Rickover.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. BENNETT) will be recognized for 20 minutes, and the gentleman from South Carolina (Mr. SPENCE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BENNETT).

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent that all Members be allowed to extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT. Mr. Speaker, I move to suspend the rules and pass the bill H.R. 4977, to direct the President to name the next *Nimitz*-class nuclear-powered aircraft carrier as the U.S.S. *Hyman G. Rickover.*

The bill would simply direct the President to name the next nuclear-powered aircraft carrier the U.S.S. *Hyman G. Rickover.* Presumably this would be the CVN-72, for which the Congress authorized long lead funding in fiscal year 1982.

The committee believes that there is no more fitting recognition of the contributions Admiral Rickover has made than to name a capital ship of the U.S. Navy in his honor. The nuclear-powered aircraft carrier is the keystone of the U.S. Navy surface fleet and the mightiest of ships of the Navy today.

The Secretary of the Navy has recently said that he would prefer to name a nuclear-powered submarine in honor of Admiral Rickover, and in testimony before the Seapower Subcommittee, Rear Admiral Kane, Director for Naval History, suggested that naming a nuclear-powered submarine would be an appropriate way to recognize the accomplishments of Admiral Rickover. Certainly this would be appropriate. However, just as Admiral Rickover's achievements and contributions are unique, the nuclear-powered aircraft carrier is a unique expression of the U.S. naval power and naming an aircraft carrier is a most fitting way to recognize Admiral Rickover's achievements.

Admiral Rickover is responsible for the introduction of nuclear power to the U.S. Navy. The nuclear powerplants that Admiral Rickover has been responsible for developing, building, and operating, have been used in aircraft carriers, cruisers, and submarines. Admiral Rickover also led the scientific, technical, and industrial team which developed and constructed the Shippingport, Pa., nuclear-powered, electric generating plant, the first commercial generating plant in the United States.

As these examples show, Admiral Rickover's accomplishments and contributions go far beyond the development of the nuclear submarine.

It is also important to note that Admiral Rickover has not sought this honor. He has stated to me and to others that he would prefer that no ship be named in honor of him.

I spoke with Mrs. Rickover about this matter in an attempt to better understand Admiral Rickover's feelings, and it is my judgment based on that conversation that if a ship is to be named for him that Admiral Rickover would prefer an aircraft carrier.

Certainly there is precedent for congressional action to direct the naming of a Navy vessel. An act of March 2, 1895, assigned the name *Kearsarge* to one of two battleships in the building program that year to commemorate the Civil War steam sloop-of-war which defeated the Confederate raider *Alabama.* An act of May 4, 1898, assigned the name *Maine* to one of three battleships in the supplementary building program for that year in commemoration of the armored battleship which had blown up in Havana Harbor earlier that year.

There is also precedent for naming aircraft carriers for distinguished Americans. A review of these names reveals that those so honored have been leaders in the executive branch, as in the case of Presidents Franklin and Theodore Roosevelt, Kennedy, and Eisenhower, and Secretary of Defense Forrestal; in the legislative branch, as in the case of Congressman Carl Vinson; and in the Navy, as in the case of Fleet Admiral Nimitz.

Finally, with the naming of the U.S.S. *Vinson,* long standing Navy tradition to honor only deceased persons in the naming of the Navy's ships was broken.

Admiral Rickover has dedicated his life to service to this country. His Navy career has spanned nearly six decades of naval service, with more than three dedades as Director of Naval Reactors. He has been responsible for the transformation of nuclear power for naval vessels from concept into reality. Much of this achievement came about despite impediments and opposition. Today there are more than 130 nuclear-powered vessels in the U.S. Navy, including four aircraft carriers and nine cruisers; and our country is much stronger because of their presence.

Admiral Rickover's accomplishments mark him as a great American. His dedication, foresight, and hard work have brought us to the point today that we are deploying ships that will operate for more than a decade without refueling. They are capable of steaming anywhere in the world without stopping to refuel and without slowing down to wait for support vessels. They are so reliable that we do not routinely consider their reliability. Their safety record is unsurpassed.

In passing this legislation we will not be simply giving honor to one who truly deserves it, we will be reminding future generations of Admiral Rickover's great accomplishments. This is good for the Navy and it is good for America.

The committee favorably recommends H.R. 4977 to the House for its approval.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure for me to speak in favor of this bill, H.R. 4977, which directs the President to name the next nuclear-powered aircraft carrier, U.S.S. *Hyman G. Rickover.*

In January 1955 the world's first nuclear-powered submarine, the U.S.S. *Nautilis* (SSN-571) put to sea, and its skipper, Comdr. Eugene P. Wilkinson, signaled the historic message "Underway on nuclear power."

This magnificent achievement was largely the result of Admiral Rickover's untiring efforts to coordinate the design and development of the Navy's nuclear propulsion program by many top professionals in industry, universities, and research organizations.

In the course of over 30 years since that breakthrough in naval propulsion, an impressive range of nuclear-powered naval vessels have joined the fleet; submarines, cruisers, and aircraft carriers.

It is interesting to contemplate how far or how safely the nuclear reactor program would have advanced. If in 1952, after twice failing of promotion from captain to rear admiral—"because his experience was too specialized"—the Congress had not intervened. Soon thereafter, the Navy Selection Board was directed to promote one engineering officer "experienced and qualified in the field of atomic propulsion machinery for ships."

Throughout his lifetime Admiral Rickover, the father of the nuclear Navy, has vigorously nurtured his infant's growth within a rigid discipline of excellence and high achievement. He has set and lived by standards few can match.

In an article entitled "Thoughts on Man's Purpose in Life . . . and Other

Matters," Admiral Rickover recently wrote:

The deepest joy in life is to be creative. To find an undeveloped situation, to see the possibilities, to decide upon a course of action, and then devote the whole of one's resources to carrying it out, even if it means battling against the stream of contemporary opinion, is a satisfaction in comparison with which superficial pleasures are trivial. But to create you must care. You must be willing to speak out.

Well, as we all know, he has indeed been creative and outspoken and we have benefited from his guidance.

I am aware that Admiral Rickover does not approve of the action we are taking here today. He feels that honors such as this should not be bestowed on living persons. I appreciate his viewpoint. However, there is precedent for such action by Congress, and it is precisely because such honor is reserved for extraordinary accomplishment that I believe that today's proceedings are appropriate and deserved.

It is because of the rich legacy of accomplishment that he has left mankind that I think it is fitting that this unique naval officer should be honored by the American people by christening the next nuclear-powered aircraft carrier in his name.

● Mrs. HECKLER. Mr. Speaker, today I would like to express my deep appreciation for the long, brilliant, and selfless career of the distinguished Adm. Hyman G. Rickover, USN. His dedication to excellence, innovation, efficiency, and honesty set a high standard exemplified by the motto, "Why not the best?" This motto is a fitting description of his career.

As father of the nuclear navy Admiral Rickover made an enormous contribution to the defense of his country. Moreover, his exacting and persistent demands for economy and elimination of waste in procurement have probably saved billions of taxpayers' dollars over the years. On January 28, 1982, Admiral Rickover made his last appearance before Congress as a witness before the Joint Economic Committee, of which I am proud to be a member. His statement was an inspiring example of insightful wisdom and sober analysis.

The adoption of H.R. 4977, which calls for naming the next *Nimitz*-class nuclear-powered aircraft carrier after Admiral Rickover, would facilitate proper recognition of his outstanding and remarkable service to the U.S. Navy. I favor speedy passage of this bill.●

□ 1445

Mr. BENNETT. Mr. Speaker, I have no further requests for time.

Mr. SPENCE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BENNETT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BENNETT) that the House suspend the rules and pass the bill, H.R. 4977.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: House Concurrent Resolution 226, House Joint Resolution 373, and H.R. 5366, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

## SENSE OF CONGRESS THAT THE PRESIDENT SHOULD PRESS FOR SAFE AND STABLE ENVIRONMENT FOR FREE AND OPEN DEMOCRATIC ELECTIONS IN EL SALVADOR

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 226.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. BARNES) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 226) on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 3, not voting 35, as follows:

[Roll No. 10]

YEAS—396

| | | |
|---|---|---|
| Addabbo | Benjamin | Broyhill |
| Akaka | Bennett | Burgener |
| Albosta | Bereuter | Butler |
| Alexander | Bevill | Byron |
| Anderson | Bingham | Carman |
| Annunzio | Blanchard | Carney |
| Anthony | Bliley | Chappell |
| Applegate | Boggs | Chappie |
| Archer | Boland | Chisholm |
| Ashbrook | Bolling | Clausen |
| Aspin | Boner | Clay |
| Atkinson | Bonior | Clinger |
| AuCoin | Bonker | Coats |
| Bafalis | Bouquard | Coelho |
| Bailey (MO) | Bowen | Coleman |
| Bailey (PA) | Breaux | Collins (TX) |
| Barnard | Brinkley | Conte |
| Barnes | Brodhead | Conyers |
| Beard | Broomfield | Corcoran |
| Bedell | Brown (CA) | Coughlin |
| Beilenson | Brown (CO) | Courter |
| Benedict | Brown (OH) | Coyne, James |
| Coyne, William | Hefner | Napier |
| Craig | Heftel | Natcher |
| Crane, Daniel | Hendon | Neal |
| Crane, Philip | Hertel | Nelligan |
| Crockett | Hightower | Nelson |
| D'Amours | Hiler | Nichols |
| Daniel, Dan | Hillis | Nowak |
| Daniel, R. W. | Holland | O'Brien |
| Danielson | Hollenbeck | Oakar |
| Dannemeyer | Holt | Oberstar |
| Daschle | Hopkins | Ottinger |
| Daub | Horton | Oxley |
| Davis | Howard | Panetta |
| de la Garza | Hoyer | Parris |
| Deckard | Hubbard | Pashayan |
| Dellums | Huckaby | Patman |
| DeNardis | Hughes | Patterson |
| Derrick | Hunter | Pease |
| Dickinson | Hutto | Pepper |
| Dicks | Hyde | Perkins |
| Dingell | Ireland | Petri |
| Dixon | Jacobs | Peyser |
| Donnelly | Jeffries | Pickle |
| Dorgan | Jenkins | Porter |
| Dougherty | Johnston | Price |
| Dowdy | Jones (NC) | Pritchard |
| Dreier | Jones (OK) | Pursell |
| Duncan | Jones (TN) | Quillen |
| Dunn | Kastenmeier | Rahall |
| Dwyer | Kazen | Railsback |
| Dymally | Kemp | Rangel |
| Dyson | Kennelly | Ratchford |
| Early | Kildee | Regula |
| Eckart | Kindness | Reuss |
| Edgar | Kogovsek | Rhodes |
| Edwards (AL) | Kramer | Richmond |
| Edwards (CA) | LaFalce | Rinaldo |
| Emerson | Lagomarsino | Ritter |
| Emery | Lantos | Roberts (KS) |
| English | Latta | Roberts (SD) |
| Ertel | Leach | Robinson |
| Evans (DE) | Leath | Rodino |
| Evans (GA) | LeBoutillier | Roe |
| Evans (IA) | Lehman | Roemer |
| Evans (IN) | Lent | Rogers |
| Fascell | Levitas | Rose |
| Fazio | Lewis | Rosenthal |
| Fenwick | Livingston | Roth |
| Ferraro | Loeffler | Roukema |
| Fiedler | Long (LA) | Rousselot |
| Fields | Long (MD) | Roybal |
| Findley | Lott | Russo |
| Fish | Lowery (CA) | Sabo |
| Fithian | Lujan | Savage |
| Flippo | Luken | Sawyer |
| Florio | Lundine | Scheuer |
| Foley | Lungren | Schneider |
| Ford (MI) | Madigan | Schroeder |
| Ford (TN) | Markey | Schulze |
| Forsythe | Marks | Schumer |
| Fountain | Marlenee | Seiberling |
| Frank | Marriott | Sensenbrenner |
| Frenzel | Martin (IL) | Shamansky |
| Frost | Martin (NC) | Shannon |
| Fuqua | Martin (NY) | Sharp |
| Garcia | Matsui | Shaw |
| Gaydos | Mavroules | Shelby |
| Gejdenson | Mazzoli | Shumway |
| Gephardt | McClory | Shuster |
| Gibbons | McCloskey | Siljander |
| Gilman | McCollum | Simon |
| Gingrich | McCurdy | Skeen |
| Ginn | McDonald | Smith (AL) |
| Glickman | McEwen | Smith (IA) |
| Goodling | McGrath | Smith (NE) |
| Gore | McKinney | Smith (NJ) |
| Gradison | Mica | Smith (OR) |
| Gramm | Michel | Smith (PA) |
| Gray | Mikulski | Snowe |
| Green | Miller (CA) | Snyder |
| Gregg | Miller (OH) | Solarz |
| Grisham | Mineta | Solomon |
| Guarini | Minish | Spence |
| Gunderson | Mitchell (MD) | St Germain |
| Hall (OH) | Mitchell (NY) | Stangeland |
| Hall, Ralph | Moakley | Stanton |
| Hall, Sam | Molinari | Stark |
| Hamilton | Mollohan | Staton |
| Hammerschmidt | Montgomery | Stenholm |
| Hansen (ID) | Moore | Stokes |
| Hansen (UT) | Moorhead | Stratton |
| Harkin | Morrison | Studds |
| Hartnett | Mottl | Stump |
| Hatcher | Murphy | Swift |
| Hawkins | Murtha | Synar |
| Heckler | Myers | Tauke |

| | | |
|---|---|---|
| Tauzin | Waxman | Wirth |
| Taylor | Weaver | Wolf |
| Thomas | Weber (MN) | Wolpe |
| Traxler | Weber (OH) | Wortley |
| Trible | Weiss | Wright |
| Udall | White | Wyden |
| Vander Jagt | Whitehurst | Wylie |
| Vento | Whitley | Yates |
| Volkmer | Whittaker | Yatron |
| Walgren | Whitten | Young (AK) |
| Walker | Williams (MT) | Young (FL) |
| Wampler | Williams (OH) | Young (MO) |
| Washington | Wilson | Zablocki |
| Watkins | Winn | Zeferetti |

NAYS—3

| | | |
|---|---|---|
| Gonzalez | Paul | Rudd |

NOT VOTING—35

| | | |
|---|---|---|
| Andrews | Dornan | Lee |
| Badham | Downey | Leland |
| Bethune | Edwards (OK) | Lowry (WA) |
| Biaggi | Erdahl | Mattox |
| Brooks | Erlenborn | McDade |
| Burton, John | Fary | McHugh |
| Burton, Phillip | Foglietta | Moffett |
| Campbell | Fowler | Obey |
| Cheney | Goldwater | Rostenkowski |
| Collins (IL) | Hagedorn | Santini |
| Conable | Hance | Skelton |
| Derwinski | Jeffords | |

□ 1500

The Clerk announced the following pairs:

Mr. Mattox with Mr. Badham.

Mrs. Collins of Illinois with Mr. Bethune.

Mr. Moffett with Mr. Cheney.

Mr. Biaggi with Mr. Erdahl.

Mr. Andrews with Mr. McDade.

Mr. Brooks with Mr. Campbell.

Mr. Skelton with Mr. Derwinski.

Mr. Fowler with Mr. Conable.

Mr. Fary with Mr. Erlenborn.

Mr. Downey with Mr. Lee.

Mr. Obey with Mr. Hagedorn.

Mr. Leland with Mr. Jeffords.

Mr. Lowry of Washington with Mr. Edwards of Oklahoma.

Mr. Phillip Burton with Mr. John L. Burton.

Mr. McHugh with Mr. Hance.

Mr. Rostenkowski with Mr. Santini.

Mr. Foglietta with Mr. Dornan of California.

Mr. MOAKLEY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

## SENSE OF CONGRESS THAT SOVIET UNION SHOULD RESPECT ITS CITIZENS' RELIGIOUS FREEDOM AND RIGHT TO EMIGRATE, AND THAT THIS SHOULD BE AN ISSUE AT THE FORTHCOMING U.N. RIGHTS MEETING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, House Joint Resolution 373, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. BONKER) that the House suspend the rules and pass the joint resolution (H.J. Res. 373) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 387, not voting 47, as follows:

[Roll No. 11]

YEAS—387

| | | |
|---|---|---|
| Addabbo | Corcoran | Ford (TN) |
| Akaka | Coughlin | Forsythe |
| Albosta | Courter | Fountain |
| Alexander | Coyne, James | Frank |
| Anderson | Coyne, William | Frenzel |
| Annunzio | Craig | Frost |
| Anthony | Crane, Daniel | Fuqua |
| Applegate | Crane, Philip | Garcia |
| Archer | D'Amours | Gaydos |
| Ashbrook | Daniel, Dan | Gejdenson |
| Aspin | Daniel, R. W. | Gephardt |
| Atkinson | Danielson | Gibbons |
| AuCoin | Dannemeyer | Gilman |
| Bafalis | Daschle | Gingrich |
| Bailey (MO) | Daub | Ginn |
| Bailey (PA) | Davis | Glickman |
| Barnard | Deckard | Gonzalez |
| Barnes | de la Garza | Goodling |
| Beard | Dellums | Gore |
| Bedell | Derrick | Gradison |
| Beilenson | Dickinson | Gramm |
| Benedict | Dicks | Gray |
| Benjamin | Dingell | Green |
| Bennett | Dixon | Gregg |
| Bereuter | Donnelly | Grisham |
| Bevill | Dorgan | Guarini |
| Bingham | Dougherty | Gunderson |
| Blanchard | Dowdy | Hall (OH) |
| Biliey | Dreier | Hall, Sam |
| Boggs | Duncan | Hamilton |
| Boland | Dunn | Hammerschmidt |
| Bolling | Dwyer | Hansen (ID) |
| Boner | Dymally | Hansen (UT) |
| Bonior | Dyson | Harkin |
| Bonker | Early | Hartnett |
| Bouquard | Eckart | Hatcher |
| Bowen | Edgar | Hawkins |
| Breaux | Edwards (AL) | Heckler |
| Brinkley | Edwards (CA) | Hefner |
| Brodhead | Emerson | Heftel |
| Broomfield | Emery | Hendon |
| Brown (CA) | English | Hertel |
| Brown (CO) | Ertel | Hightower |
| Brown (OH) | Evans (DE) | Hiler |
| Broyhill | Evans (GA) | Hillis |
| Burgener | Evans (IA) | Holland |
| Butler | Evans (IN) | Hollenbeck |
| Byron | Fascell | Holt |
| Carman | Fazio | Hopkins |
| Carney | Fenwick | Horton |
| Chappell | Ferraro | Howard |
| Chappie | Fiedler | Hoyer |
| Chisholm | Fields | Hubbard |
| Clausen | Findley | Huckaby |
| Clay | Fish | Hughes |
| Coats | Fithian | Hunter |
| Coelho | Flippo | Hutto |
| Coleman | Florio | Hyde |
| Collins (TX) | Foley | Ireland |
| Conte | Ford (MI) | Jacobs |
| Jeffries | Motti | Shumway |
| Jenkins | Murphy | Shuster |
| Johnston | Murtha | Siljander |
| Jones (NC) | Myers | Simon |
| Jones (OK) | Napier | Skeen |
| Jones (TN) | Natcher | Smith (AL) |
| Kastenmeier | Neal | Smith (IA) |
| Kazen | Nelligan | Smith (NE) |
| Kemp | Nelson | Smith (NJ) |
| Kennelly | Nichols | Smith (OR) |
| Kildee | Nowak | Smith (PA) |
| Kindness | O'Brien | Snowe |
| Kogovsek | Oakar | Snyder |
| Kramer | Oberstar | Solarz |
| LaFalce | Ottinger | Spence |
| Lagomarsino | Oxley | St Germain |
| Lantos | Panetta | Stangeland |
| Latta | Parris | Stanton |
| Leach | Pashayan | Stark |
| Leath | Patman | Staton |
| LeBoutillier | Patterson | Stenholm |
| Lehman | Paul | Stokes |
| Lent | Pease | Stratton |
| Levitas | Pepper | Studds |
| Lewis | Perkins | Stump |
| Livingston | Petri | Swift |
| Loeffler | Peyser | Synar |
| Long (LA) | Pickle | Tauke |
| Long (MD) | Porter | Tauzin |
| Lott | Price | Taylor |
| Lowery (CA) | Pritchard | Thomas |
| Lujan | Pursell | Traxler |
| Luken | Quillen | Trible |
| Lundine | Rahall | Udall |
| Lungren | Rangel | Vander Jagt |
| Madigan | Ratchford | Vento |
| Markey | Regula | Volkmer |
| Marks | Reuss | Walgren |
| Marlenee | Rhodes | Walker |
| Marriott | Richmond | Wampler |
| Martin (NC) | Rinaldo | Washington |
| Martin (NY) | Ritter | Watkins |
| Matsui | Roberts (KS) | Waxman |
| Mavroules | Robinson | Weaver |
| Mazzoli | Rodino | Weber (MN) |
| McClory | Roe | Weber (OH) |
| McCloskey | Roemer | Weiss |
| McCollum | Rogers | White |
| McCurdy | Rose | Whitehurst |
| McDonald | Rosenthal | Whittaker |
| McEwen | Roth | Whitten |
| McGrath | Roukema | Williams (MT) |
| McKinney | Rousselot | Williams (OH) |
| Mica | Roybal | Wilson |
| Michel | Rudd | Winn |
| Mikulski | Russo | Wirth |
| Miller (CA) | Sabo | Wolf |
| Miller (OH) | Savage | Wolpe |
| Mineta | Sawyer | Wortley |
| Minish | Schroeder | Wright |
| Mitchell (MD) | Schulze | Wyden |
| Mitchell (NY) | Schumer | Wylie |
| Moakley | Seiberling | Yates |
| Molinari | Sensenbrenner | Yatron |
| Mollohan | Shamansky | Young (AK) |
| Montgomery | Shannon | Young (FL) |
| Moore | Sharp | Young (MO) |
| Moorhead | Shaw | Zablocki |
| Morrison | Shelby | Zeferetti |

NOT VOTING—47

| | | |
|---|---|---|
| Andrews | Dornan | Martin (IL) |
| Badham | Downey | Mattox |
| Bethune | Edwards (OK) | McDade |
| Biaggi | Erdahl | McHugh |
| Brooks | Erlenborn | Moffett |
| Burton, John | Fary | Obey |
| Burton, Phillip | Foglietta | Railsback |
| Campbell | Fowler | Roberts (SD) |
| Cheney | Goldwater | Rostenkowski |
| Clinger | Hagedorn | Santini |
| Collins (IL) | Hall, Ralph | Scheuer |
| Conable | Hance | Schneider |
| Conyers | Jeffords | Skelton |
| Crockett | Lee | Solomon |
| DeNardis | Leland | Whitley |
| Derwinski | Lowry (WA) | |

The Clerk announced the following pairs:

Mr. Mattox with Mr. Badham.

Mrs. Collins of Illinois with Mr. Bethune.

Mr. Moffett with Mr. Cheney.

Mr. Biaggi with Mr. Erdahl.

Mr. Andrews with Mr. McDade.
Mr. Brooks with Mr. Campbell.
Mr. Skelton with Mr. Derwinski.
Mr. Fowler with Mr. Conable.
Mr. Fary with Mr. Erlenborn.
Mr. Downey with Mr. Lee.
Mr. Obey with Mr. Hagedorn.
Mr. Leland with Mr. Jeffords.
Mr. Lowry of Washington with Mr. Edwards of Oklahoma.
Mr. Phillip Burton with Mr. John L. Burton.
Mr. McHugh with Mr. Hance.
Mr. Rostenkowski with Mr. Santini.
Mr. Foglietta with Mr. Dornan of California.
Mr. Whitley with Mr. Railsback.
Mr. Scheuer with Mrs. Martin of Illinois.
Mr. Roberts of South Dakota with Mr. Solomon.
Mr. Crockett with Mr. Conyers.
Mrs. Schneider with Mr. DeNardis.
Mr. Clinger with Mr. Ralph M. Hall.

□ 1515

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES ACT OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5366, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. FERRARO) that the House suspend the rules and pass the bill, H.R. 5366, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 255, nays 142, not voting 37, as follows:

[Roll No. 12]

YEAS—255

| | | |
|---|---|---|
| Addabbo | Brinkley | Dorgan |
| Akaka | Brodhead | Dougherty |
| Albosta | Brown (CA) | Dowdy |
| Alexander | Byron | Dunn |
| Anderson | Carney | Dwyer |
| Annunzio | Chisholm | Dymally |
| Anthony | Clausen | Dyson |
| Applegate | Clay | Early |
| Atkinson | Coelho | Eckart |
| AuCoin | Conyers | Edgar |
| Bailey (MO) | Corcoran | Edwards (AL) |
| Bailey (PA) | Courter | Edwards (CA) |
| Barnes | Coyne, William | Emery |
| Bedell | Crockett | Ertel |
| Beilenson | D'Amours | Evans (GA) |
| Benjamin | Daniel, R. W. | Evans (IA) |
| Bennett | Danielson | Evans (IN) |
| Bevill | Daschle | Fascell |
| Bingham | Davis | Fazio |
| Blanchard | de la Garza | Fenwick |
| Boggs | Deckard | Ferraro |
| Boland | Dellums | Fiedler |
| Bolling | DeNardis | Findley |
| Boner | Derrick | Fish |
| Bonior | Dicks | Fithian |
| Bonker | Dingell | Flippo |
| Bowen | Dixon | Florio |
| Breaux | Donnelly | Foley |
| Ford (MI) | Madigan | Roybal |
| Ford (TN) | Markey | Russo |
| Frank | Marks | Sabo |
| Frost | Marriott | Savage |
| Fuqua | Martin (IL) | Scheuer |
| Garcia | Martin (NY) | Schneider |
| Gaydos | Matsui | Schroeder |
| Gejdenson | Mavroules | Schumer |
| Gephardt | Mazzoli | Seiberling |
| Gilman | McCloskey | Shamansky |
| Ginn | McCurdy | Shannon |
| Glickman | McKinney | Sharp |
| Gonzalez | Mica | Shelby |
| Gore | Michel | Shuster |
| Gradison | Mikulski | Simon |
| Gray | Miller (CA) | Smith (IA) |
| Green | Mineta | Smith (NJ) |
| Guarini | Minish | Smith (PA) |
| Gunderson | Mitchell (MD) | Snowe |
| Hall (OH) | Moakley | Solarz |
| Hamilton | Molinari | St Germain |
| Harkin | Moore | Stanton |
| Hawkins | Mottl | Stark |
| Heckler | Murphy | Stokes |
| Hefner | Napier | Stratton |
| Heftel | Natcher | Studds |
| Hertel | Neal | Synar |
| Holland | Nelson | Tauke |
| Hollenbeck | Nichols | Tauzin |
| Holt | Nowak | Taylor |
| Horton | Oakar | Traxler |
| Howard | Oberstar | Trible |
| Hoyer | Ottinger | Udall |
| Huckaby | Parris | Vander Jagt |
| Hughes | Patman | Vento |
| Hunter | Pepper | Volkmer |
| Hutto | Perkins | Walgren |
| Jacobs | Petri | Washington |
| Jenkins | Peyser | Waxman |
| Jones (NC) | Pickle | Weaver |
| Jones (OK) | Porter | Weiss |
| Jones (TN) | Price | Whitehurst |
| Kastenmeier | Pritchard | Whitley |
| Kazen | Pursell | Whitten |
| Kemp | Rahall | Williams (MT) |
| Kennelly | Railsback | Williams (OH) |
| Kildee | Rangel | Wilson |
| Kogovsek | Ratchford | Wirth |
| LaFalce | Regula | Wolf |
| Lantos | Reuss | Wolpe |
| Leach | Rhodes | Wright |
| Lehman | Richmond | Wyden |
| Lent | Rinaldo | Yates |
| Long (LA) | Rodino | Yatron |
| Long (MD) | Roe | Young (AK) |
| Luken | Rose | Zablocki |
| Lundine | Rosenthal | Zeferetti |

NAYS—142

| | | |
|---|---|---|
| Archer | English | Lewis |
| Ashbrook | Evans (DE) | Livingston |
| Aspin | Fields | Loeffler |
| Bafalis | Forsythe | Lott |
| Barnard | Fountain | Lowery (CA) |
| Beard | Frenzel | Lujan |
| Benedict | Gibbons | Lungren |
| Bereuter | Gingrich | Marlenee |
| Bliley | Goodling | Martin (NC) |
| Bouquard | Gramm | McClory |
| Broomfield | Gregg | McCollum |
| Brown (CO) | Grisham | McDonald |
| Brown (OH) | Hall, Ralph | McEwen |
| Broyhill | Hall, Sam | McGrath |
| Burgener | Hammerschmidt | Miller (OH) |
| Butler | Hansen (ID) | Mitchell (NY) |
| Carman | Hansen (UT) | Mollohan |
| Chappell | Hartnett | Montgomery |
| Chappie | Hatcher | Moorhead |
| Clinger | Hendon | Morrison |
| Coats | Hightower | Murtha |
| Coleman | Hiler | Myers |
| Collins (TX) | Hillis | Nelligan |
| Conte | Hopkins | O'Brien |
| Coughlin | Hubbard | Oxley |
| Coyne, James | Hyde | Panetta |
| Craig | Ireland | Pashayan |
| Crane, Daniel | Jeffries | Patterson |
| Crane, Philip | Johnston | Paul |
| Daniel, Dan | Kindness | Quillen |
| Dannemeyer | Kramer | Ritter |
| Daub | Lagomarsino | Roberts (KS) |
| Dickinson | Latta | Roberts (SD) |
| Dreier | Leath | Robinson |
| Duncan | LeBoutillier | Roemer |
| Emerson | Levitas | Rogers |
| Roth | Smith (NE) | Watkins |
| Roukema | Smith (OR) | Weber (MN) |
| Rousselot | Snyder | Weber (OH) |
| Rudd | Solomon | White |
| Sawyer | Spence | Whittaker |
| Schulze | Stangeland | Winn |
| Sensenbrenner | Staton | Wortley |
| Shaw | Stenholm | Wylie |
| Shumway | Stump | Young (FL) |
| Siljander | Thomas | Young (MO) |
| Skeen | Walker | |
| Smith (AL) | Wampler | |

NOT VOTING—37

| | | |
|---|---|---|
| Andrews | Downey | Lowry (WA) |
| Badham | Edwards (OK) | Mattox |
| Bethune | Erdahl | McDade |
| Biaggi | Erlenborn | McHugh |
| Brooks | Fary | Moffett |
| Burton, John | Foglietta | Obey |
| Burton, Phillip | Fowler | Pease |
| Campbell | Goldwater | Rostenkowski |
| Cheney | Hagedorn | Santini |
| Collins (IL) | Hance | Skelton |
| Conable | Jeffords | Swift |
| Derwinski | Lee | |
| Dornan | Leland | |

The Clerk announced the following pairs:

Mr. Mattox with Mr. Badham.
Mrs. Collins of Illinois with Mr. Bethune.
Mr. Moffett with Mr. Cheney.
Mr. Biaggi with Mr. Erdahl.
Mr. Andrews with Mr. McDade.
Mr. Brooks with Mr. Campbell.
Mr. Skelton with Mr. Derwinski.
Mr. Fowler with Mr. Conable.
Mr. Fary with Mr. Erlenborn.
Mr. Downey with Mr. Lee.
Mr. Obey with Mr. Hagedorn.
Mr. Leland with Mr. Jeffords.
Mr. Lowry of Washington with Mr. Edwards of Oklahoma.
Mr. Phillip Burton with Mr. John L. Burton.
Mr. McHugh with Mr. Hance.
Mr. Rostenkowski with Mr. Santini.
Mr. Foglietta with Mr. Dornan of California.
Mr. Pease with Mr. Swift.

Mr. ASPIN and Mrs. BOUQUARD changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. SOLOMON. Mr. Speaker, on rollcall No. 11, I was unaware that we were on a 5-minute vote. I missed that vote. Had I been present, I would have voted in the affirmative.

## PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, I was discussing another legislative matter when the cluster vote on H.R. 5366 was taken.

I would have voted "yea" in favor of the flexitime bill.

## JAMES A. FARLEY BUILDING

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further

consideration of the resolution (H. Res. 368) calling upon the U.S. Postal Service to designate the General Post Office Building, New York City, as the James A. Farley Building, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so simply to find out from the gentleman whether or not this has cleared the minority. I see no Members from the minority here on our side.

Mr. GARCIA. If the gentleman will yield, the answer to the question of the gentleman from Pennsylvania is: Yes, it has been cleared with the minority.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 368

Whereas James A. Farley served as Postmaster General of the United States from March 4, 1933, through August 31, 1940; and

Whereas the United States Post Office Department under the direction of Postmaster General Farley numbered among its accomplishments an operating surplus six of his seven years as Postmaster General, the reduction in the workweek for postal employees from forty-four to forty hours, the growth of the airmail service by thousands of miles, the erection of some one thousand five hundred post offices, and the placement of first-, second-, and third-class postmasters under the civil service; and

Whereas James A. Farley was a native and longtime resident of the State of New York; and

Whereas James A. Farley served the city of New York as port warden of the Port of New York and held numerous public and party offices in the State of New York; and

Whereas James A. Farley served his State and Nation over a lifetime of eighty-eight years with the highest distinction as one of the leading public figures of his time; and

Whereas the life of James A. Farley should serve as an example for present and future generations of Americans of the vital contribution which individual citizens can make to the life of the Nation through diligent public service; and

Whereas the long and distinguished service of James A. Farley should be permanently memorialized by the United States Postal Service on behalf of a grateful nation: Now, therefore, be it

*Resolved,* That the House of Representatives calls upon the United States Postal Service to designate the General Post Office Building, New York City, as the "James A. Farley Building".

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) is recognized for 1 hour.

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to yield my time to the gentleman from New York (Mr. GARCIA), who wishes to handle the bill on the floor.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. GARCIA. Mr. Speaker, a few weeks ago in this Chamber, we gathered to pay tribute to Franklin Delano Roosevelt on the occasion of the 100th anniversary of his birth.

It is only fitting that, in this centennial year, we also recognize and memoralize the achievements and contributions of one of the giants of the Roosevelt era—James A. Farley.

Jim Farley was perhaps the most widely known and visible member of the Roosevelt Cabinet during the prewar years. As Postmaster General, he was a superb manager of the Nation's vast and complex postal system. He achieved an operating surplus 6 of his 7 years as Postmaster General. He built some 1,500 new post offices and extended the infant Air Mail Service by thousands of miles. And most importantly, he brought about tremendous improvements in the working conditions of postal employees.

But Jim Farley, of course, was more than just the Postmaster General. He crisscrossed the Nation during the darkest days of the Depression making countless speeches and preaching FDR's gospel of hope at a time when despair threatened to tear apart the very fabric of America.

Jim Farley, I am proud to say, was also a New Yorker—and what a New Yorker. He loved the city, and it loved him. Except for his time of service in Washington, Jim Farley lived there all of his adult life, and participated actively in civic affairs until his death at the age of 88 in 1976.

Jim Farley was also one of the most astute politicians of his time—a politician in the best and purest sense of the word. He viewed politics as a means to an end, not an end in itself. He believed that good politics was necessary to good government, and he practiced the art as few ever have. Farley's outlook is best summarized by one of his most notable statements: "Politics is the noblest of careers."

There could be no more fitting tribute to this devoted public servant than to rename the General Post Office Building in New York City the James A. Farley Building. House Resolution 368 calls upon the Postmaster General to take such an action.

I ask all Members to join in memorializing the life and times of a great American, Jim Farley.

□ 1530

Mr. Speaker, I yield to my colleague, the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I rise today as an original cosponsor of the resolution to designate the General Post Office Building in New York City as the James A. Farley Building.

Jim Farley, a native New Yorker, served his State and his Nation with distinction during a life of public service. A man of highest personal integrity, Jim Farley serves as an example for present and future generations of Americans of the contribution individual citizens can make to their country through public service and political activity.

He has been described as a powerhouse during Franklin D. Roosevelt's first two terms in office. Indeed, that same type of energy and dedication that he and others in FDR's administration possessed which helped lead the country out of the Depression is well worth recognizing during our current economic woes.

Throughout his career, Farley's style was to emphasize the personal. He shook thousands of hands, and had a legendary memory for the names and faces that went with them. "I like people," Farley often said, and boasted that he had 100,000 friends. Many people still remember seeing him in the New York City General Post Office, shaking hands, trading stories, and adding to that long list of friends.

James A. Farley compiled an admirable record of accomplishment as Postmaster General for 7 years under F.D.R. This year of the centennial of President Roosevelt's birth is a fitting time to remember Mr. Farley by putting his name on a building of the institution he served so well.

I urge that the House approve this resolution.

Mr. GARCIA. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I very much appreciate my colleague and distinguished friend, the gentleman from New York, for yielding to me, and I want to commend him and my other friends from New York, the gentlewoman from New York (Ms. FERRARO) and the gentleman from New York (Mr. SCHUMER) for bringing this resolution and legislation on the floor for action by the Congress and the House at this time.

Mr. Farley was, indeed, a giant in politics and government in his day and his day really lasted right on into our day. His reputation, obviously, will survive for many, many years to come.

The facility which is named in his honor is located in my district, the 20th Congressional District in New York, and on behalf of all my constituents in the 20th Congressional District, I want to express my appreciation and add to the words of commendation which have been spoken on behalf of Mr. Farley.

Mr. GARCIA. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Mr. Speaker, I thank the gentleman and the chairwoman of our subcommittee for sponsoring this legislation.

Today the United States honors one of its faithful public servants and loyal New Yorkers, James A. Farley, whose political career culminated in his 7-year tenure as Postmaster General.

Jim Farley began his illustrious political career as the town clerk of Stony Point, N.Y., where he combined dedication and personal charm in learning the business of politics. During his service in New York he held three terms as the Stony Point town clerk, one term as Rockland County supervisor, and one term as a member of the New York State Assembly. In 1930, he was elected chairman of the New York State Democratic Committee. Mr. Farley was the catalyst behind Franklin Delano Roosevelt's campaigns for Governor of New York and for President of the United States. He was appointed Democratic National Committee chairman by President Roosevelt in 1932; he went on to direct Roosevelt's 1936 Presidential campaign.

In 1933, President Roosevelt appointed him to be Postmaster General. Under Mr. Farley's supervision, the Post Office ran as a well-oiled machine. It had an operating surplus during 6 of his 7 years, the postal employee's workweek was reduced from 44 to 40 hours, and some 1,500 new post offices were erected throughout the Nation.

Mr. Farley's service was an honor to New York and to the Nation. The designation of the General Post Office Building, New York City, as the James A. Farley Building is a fitting tribute to a great American.

Mr. GARCIA. Mr. Speaker, having no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## GUAM AIR RESERVE UNIT DOING FINE JOB

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WON PAT. Mr. Speaker, recently, the U.S. Air Force established a new Air Reserve unit known as the 349th Aerial Port Detachment under the Military Airlift Command. The unit is headquartered at Andersen Air Force Base on Guam and although the unit is only 1 year old, it has been doing an outstanding job.

This month's edition of the Air Reservist magazine (February 1982) has an excellent story about the 349th, and I ask that it be placed in the CONGRESSIONAL RECORD so that my colleagues may have the opportunity to know more about this fine unit. I am pleased that Col. David Palmer, director of Air Force affairs of the Reserve Officers Association of the United States, called this article to my attention, because it shows that the people of Guam are ever ready to do their part for the defense of this great Nation.

We on Guam have long placed a premium on patriotism, a fact reflected in the high percentage of our people from Guam who have served with much honor in the military forces of the United States. Today, this heritage of service to our Nation continues. Sgt. John San Nicolas of the 349th perhaps put it best when he told the writer of the article "to me, serving my country is part of being a Guamanian." His statement is echoed by his colleagues and I salute Sergeant San Nicolas and his fellow members of the 349th for a job well done.

Mr. Speaker, the article from the Air Reservist is as follows:

IT REALLY IS A GREAT WAY OF LIFE

(By Capt. Todd A. Fruehling)

A few years ago, a lot of people left the military service. Now, a lot of them are coming back, even at the far corners of the globe. When the Military Airlift Command's 349th Aerial Port Detachment 1 became the first Air Force Reserve unit on Guam, 38 of the original 64 recruits were prior-service noncommissioned officers. Their rediscovery of military life convinced them and the other new recruits that the Air Force really is a great way of life!

Activated on March 21, 1981, most of the people are now being trained as either air cargo or air passenger specialists. They assist the 605th Military Airlift Support Squadron with heavy weekend cargo traffic at Andersen AB. All of the prior-service NCO's are glad to be back in uniform.

"To me, serving my country is part of being Guamanian," commented Sgt. John San Nicolas. "I was a supply technician at the Air Force Academy, before I got out in 1971 to join the U.S. Postal Service here on Guam. I've always really loved the Air Force, and the responsibility I had working at the academy's armory. I almost joined the Army Reserve unit here, but waited for the Air Force to start one."

John wasn't the only one who "waited for the Air Force." After several years, the idea developed momentum in January 1981. Hoping to find 64 people among Guam's 100,000 residents, recruiters were overwhelmed by 500 applicants. Many had prior military service.

SMSgt. Thomas Fernandez, former liaison from the 605th Military Airlift Support Squadron for the new Reserve unit, gave patriotism as the primary reason for the high local response. A life-long resident of Guam, Sergeant Fernandez knows of when Guam was an occupied territory for two and a half years during World War II—the only time since the Revolutionary War that an American territory had been captured. That period cultivated a high level of patriotism which lasted through the Vietnam conflict, as well.

Sergeant Fernandez commented, "The people here feel a need to be part of the service. The new Reserve unit gives them an opportunity to keep building their future here through their civilian jobs, and also serve their country. Recruiting on the mainland has its ups and downs, but it's always high on Guam, as you can see by the initial response."

Col. John Sullivan commands the Guam unit as a part of the 349th Military Airlift Wing (Assoc.), at Travis AFB, Calif. The unit quickly organized its first unit training assembly on April 25. This early training opportunity to learn a new skill attracted many people into the new unit, even the returning NCO's.

A large proportion of the Reservists work for the Government of Guam, such as the Postal Service or Department of Education. Supervisors support everyone's involvement, and approval for any off-island Reserve training requirements is no problem. Final approval for government employee participation comes from Guam's Governor, Paul M. Calvo, who commented, "I fully support all Reserve participation because of the excellent leadership training it offers. The experience our young men and women acquire returns to our island, and benefits everyone for many years. These contributions are invaluable to our island's growth."

That leadership experience has already been tapped. Prior-service NCO's have provided valuable help to recruits new to the military. These experienced NCO's time outside the service gave additional motivation and incentive to the new enlistees.

Sgt. Robert Webb left the Air Force in May of 1979, and now announces for a local radio station. He reenlisted in the reserve to do the same job he had before he got out—a job he enjoyed. Robert felt that, "In civilian life, there are a lot of prejudices. One day you're in, the next day, you're out. In the military, everybody's equal, and has a chance. They really don't hold you back. Ever since I've been back in the Reserve, it's been like coming back to an old friend . . . I've got a chance, again, to do what I'm good at. It's a great way of life—every bit of it's true. It was for me, and I might even be back on active duty someday."

That idea helps A1C Enrique Torres rapidly adjust to the Air Force. He commented, "It's a great way of life in that it's a lot more like a civilian life-style. But our motto of 'The Air Force Reserve: A Great Way to Serve' is more appropriate. I've got six years to serve—and they're going to be great!"

## THE WORK INCENTIVE PROGRAM (WIN)

(Mr. YATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YATES. Mr. Speaker, last month when the House considered my bill to provide supplemental funds to the Labor Department for the State Job Service agencies, I indicated that the bill contained no funds for the work incentive program (WIN). So, today, I am introducing with 20 cosponsors, Mr. OBERSTAR, Mr. REUSS, Mr. CLAY, Mr. PERKINS, Mr. DICKS, Mr. MURPHY, Mr. MOFFETT, Mr. FOGLIETTA, Mr. FAUNTROY, Mr. VENTO, Mr. RODINO, Mr. BOLAND, Mr. DE LA GARZA, Mr. FRANK, Mr. MITCHELL, Mr. BARNES, Mr. APPLEGATE, Mr. BEILENSON, Mr. OTTINGER, and Mr. CORRADA, an urgent supplemental appropriations bill to provide the Department of Health and Human Services with $76,842,000 in fiscal year 1982 funds for this program. I believe we must end this no-win situation. With this appropriation, the State-operated WIN offices will be able to continue the jobs search assistance that has been so successful in finding nonsubsidized, private sector jobs for AFDC welfare recipients.

The WIN program has been in existence in most States since 1968. It is recognized as a practical, humane, and cost-effective individual effort. The cost savings associated with this program last year were more than double its total operating costs.

But unless we act, the States are going to lose most or all of this resource. In my own State of Illinois, for example, 11 WIN offices are about to be closed and some 300 WIN employees themselves will be without jobs. In fact, I have just learned that these employees have today received their termination notices and will be without jobs on March 15. With your support we can keep the WIN program in place at a time when it is so clearly necessary. I urge passage of this bill.

Mr. Speaker, I append a copy of the hearings pertaining to the WIN program from the 1982 budget hearings before the Health and Human Services-Department of Labor appropriations hearings of the Natcher subcommittee:

### WIN EVALUATION INFORMATION

Mr. NATCHER. What new information do you have from evaluations of the WIN program?

Mr. MASTER. A major source of information for evaluating WIN program effectiveness is the WIN computerized management information system, MIS, which collects information on program participants, services provided, employment and grant reduction outcomes, and program costs.

One of the most important indicators of WIN performance as derived from the MIS is the "return on investment" figure which relates annualized welfare grant reductions resulting from the employment of WIN registrants to total program costs. This figure has consistently ranged from about 1.5:1.0 to 1.8:1.0 in recent years. That is, program benefits, as measured by welfare grant reductions for WIN registrants who have become employed, have been at least one and one-half times the total program expenditures in each year. In FY 1980, annualized welfare grant reductions were calculated at $632 million compared to total program costs of $372 million.

In addition to welfare grant reductions, WIN also calculates annualized wages of WIN registrants who have become employed in relation to total program costs. This figure has consistently run more than 4:1. In FY 1980, annualized wages were calculated at $1,953 million compared to total program costs of $372 million. These earnings represent benefits to the individuals, as well as generating some tax revenues for the government.

Furthermore, estimates of public medical care savings and food stamp savings for WIN registrants who become employed were calculated at about $203 million and $131 million, respectively, in FY 1980.

All of these figures indicate that WIN is returning more in the way of tax savings and other benefits to society than it is costing.

A major longitudinal evaluation of the WIN program carried out by an independent contractor tends to support this picture of WIN as a cost-beneficial program. The study followed-up a cohort of 1974–75 WIN participants through 1979. It established that particularly for women, who comprise the great majority of WIN registrants, the program has overall positive effects. In addition, the WIN work and training components—institutional training, on-the-job training, work experience, and public service employment—showed quite significant positive effects, as measured by increases in estimated life-time earnings and benefit-cost ratios. While the job search component, as it was operated in 1974–75, was not found to be cost-effective, since that time, WIN has instituted a much more structured and intensified job search component, including the very successful group job seeking approach. Subsequent studies have shown this approach to be about twice as effective in placing registrants in jobs as the earlier approach.

### WIN PARTICIPANTS OFF WELFARE ROLLS

Mr. NATCHER. What data do you have that shows WIN is successful in keeping participants off the welfare rolls for more than two years?

Mr. MASTER. We have no data on this issue for a two-year period. However, of the WIN registrants who enter unsubsidized employment, approximately half earn enough to be removed from AFDC welfare rolls. The rest have their welfare grants reduced, but not eliminated. A special study of job retention over a one year period shows that of all WIN registrants entering employment, about 55 percent still retained that job after 12 months. In addition, of those who were no longer found to be employed, while most returned to the welfare rolls, a significant proportion, about 20 percent, did not.

### WIN EMPLOYMENT STATUS FOLLOWUP

Mr. NATCHER. What system do you use for following up the employment status of former WIN participants?

Mr. MASTER. WIN contacts an individual 30 days after he or she enters employment, not only to see whether the person is still employed, but also to determine whether any additional service is needed. In FY 1980, the employment retention rate, as determined by this followup, was found to be 86 percent.

This past year a special study was completed which determined the retention rate at longer intervals. At 3 months the comparable rate was 67 percent, at 6 months 60 percent, and at 13 months 55 percent.

### WIN PARTICIPATION REFUSAL

Mr. NATCHER. What action can be taken against welfare recipients who refuse jobs or training?

Mr. MASTER. The Social Security Act in Section 402(a)(19)(A) provided that as a condition of eligibility for a welfare grant an individual who is not in one of the exempt categories must register with WIN for employment and training. The Act and the WIN regulations further provide that a mandatory WIN registrant who, without good cause, fails or refuses to accept employment or training must be deregistered from WIN with the resulting loss of eligibility for the welfare grant. The State welfare agency then must be notified to remove the individual's portion from the family grant.

During FY 1980, 14,401 individuals were deregistered, i.e., sanctioned, for having failed or refused to participate in WIN without good cause.

### WAITING TO PARTICIPATE IN WIN

Mr. NATCHER. Are there waiting lists of people who want to participate in the WIN program? (If so, how many are waiting?)

Mr. MASTER. Because of limited funding WIN is able to serve only a portion of its registrants. At any one time, about half of WIN registrants are in unassigned recipient status. These include registrants awaiting the beginning of program activity, those between component assignments, and those for whom no immediate program activity other than job referral is planned. In September 1980, 798,000 of 1,567,000 registrants on hand were in unassigned recipient status.

### WIN FEMALE PARTICIPANTS

Mr. NATCHER. Are most WIN participants female?

Mr. MASTER. Yes. In FY 1980, approximately three-fourths of WIN registrants were female.

### FEMALE PARTICIPATION IN WIN HIGH

Mr. NATCHER. What is the reason for the high percentage of female participants?

Mr. MASTER. Only persons who are applicants for, or recipients of, AFDC may register in WIN, and the majority of such persons are female. This is true even in States which provide AFDC payments for unemployed fathers. Less than half of the States now provide payments for unemployed fathers.

Most WIN registrants are required by law to register for WIN, as a condition of eligibility for AFDC. However, in addition to these mandatory registrants, many females register voluntarily hoping to receive services leading to employment.

### WIN MANAGEMENT INFORMATION SYSTEM

Mr. NATCHER. How much of the WIN budget is used to finance its management information computer system?

Mr. MASTER. WIN budgets about $300,000 of the Federal Program Direction and Evaluation activity for the computer system.

## A WAY OUT OF THE NATION'S ECONOMIC TRAP: VIEWS OF TWO LEADING ECONOMISTS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, I would like to call the attention of our colleagues to two stimulating newspaper articles dealing with the mess the country finds itself in as a result of the ill-advised actions taken last year in adopting the President's budget and tax programs.

One article, by Robert J. Gordon, appeared in the Washington Post for Sunday, February 28. The writer, a professor of economics at Northwestern University, sketches out what might now be the state of the economy if a different approach, one based on objective economic analysis instead of a rigid ideology, had been adopted last year.

One need not agree, and I do not agree, with all of Professor Gordon's specific suggestions to recognize the cogency of his overall appraisal and the soundness of some of his specifics. The latter include, especially: Gradual reform of taxes, emphasizing productivity and saving incentives; more Federal support for education, especially technical and vocational education; and improving defense preparedness at lower cost by eliminating wasteful practices and unnecessary weapons like the B-1 bomber.

His commentary on the administration's economic programs he himself aptly summarizes as follows:

> Reaganomics seems stunningly misdirected in almost every aspect, from its caveman monetary policy, to its gold-plated defense budget, to its disregard for the long-run payoffs of training and education. We still await the new broom of a politican, who will sweep away the liberal and conservative dogmas of the past, as well as the damage inflicted in 1981-82.

The other article, by Walter W. Heller, containing some practical recommendations for action this year, appeared in the Wall Street Journal of February 25. Professor Heller, former Chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson and now a professor of economics at the University of Minnesota, is generally credited with the successful tax and budget policies that led to the rapid economic growth, low inflation, and low unemployment rates of the early 1960's.

Citing projections showing that the deficit trap is far greater than the Reagan budget would have us believe, Mr. Heller states:

> Reaganomics is caught in a no-win trap: While denying any rift with the Fed, Mr. Reagan won't give an inch on the rapid military buildup and gigantic tax cuts that will put deficits into a triple-digit orbit for years to come. But unless these menacing deficits are brought within bounds, Mr. Volcker won't give an inch on a super-tight money policy that will prolong recession, stunt growth and abort recovery. Yet there is simply no way within the bounds of political tolerance, or human decency, to cut the 1983-86 deficits down to size via further assults on social programs.

The truly sad thing about Mr. Reagan's budget stand—his stonewalling that masquerades as steadfastness—is that a strategically plausible, economically positive and politically palatable alternative lies within his reach.

Professor Heller then proceeds to outline the steps he believes the President should take, as follows:

Announce that he recognizes that his tax, budget, and defense programs are trying to do too much too soon;

Convene a summit "economic disarmament conference" among the White House, Congress, and the Fed to hammer out an agreed agenda to end the recession, promote sustained growth and curb inflation.

The centerpiece of the accord would consist of two parts:

First, agreement by the White House to slow the tax cuts and the defense buildup for 1983 and beyond while continuing to make carefully targeted cuts in nondefense spending—Heller would, however, accelerate the 1982 tax cuts; and

Second, a firm bargain with the Fed under which the Fed, in exchange for the deficit cutbacks it has been demanding, would agree to accommodate expansion by lowering real interest rates.

A Presidential appeal to big business and big labor to moderate their wage and price behavior in exchange for the improved job and profit opportunities generated by lower interest rates and more rapid expansion.

I agree with Professor Heller that it is hard to see anything but winners from such a program. As a Democrat who puts the country above the party, as I believe most of us do, I would rejoice if such action were taken by the President toward reversing the vicious cycle of recession, unemployment, and inflation we find ourselves in. However, if he declines to provide such leadership, then it must come from Congress itself. Clearly the time is at hand to put aside ideology and partisanship and pull together for the sake of our country.

The full text of the two articles follows these remarks:

[From the Wall Street Journal, Feb. 25, 1982]

### A WAY OUT OF THE NATION'S ECONOMIC TRAP

(By Walter W. Heller)

Reaganomics is caught in a no-win trap: While denying any rift with the Fed, Mr. Reagan won't give an inch on the rapid military buildup and gigantic tax cuts that will put deficits into a triple-digit orbit for years to come. But unless these menacing deficits are brought within bounds, Mr. Volcker won't give an inch on a super-tight money policy that will prolong recession, stunt growth and abort recovery. Yet there is simply no way within the bounds of political tolerance, or human decency, to cut the 1983-86 deficits down to size via further assaults on social programs.

To see just how unyielding a trap we're caught in, one must appraise the true size of the deficit problem that Mr. Reagan and Congress have to surmount to head Mr. Volcker off at the gap. The basic raw materials for drawing up a "best bet" deficit profile are the two official budgets just issued:

The Congressional Budget Office (CBO) "baseline budget," which projects receipts and outlays under existing policies, that is, before any further spending cuts or tax increases.

The Reagan budget, which proposes sharp civilian budget cuts and modest tax increases and projects markedly lower interest costs and a faster defense buildup than the CBO budget.

The accompanying table gives a bird's-eye view of the two budgets and then offers a "modified Reagan budget" constructed on the following "best bet" assumptions:

THE 1982-85 BUDGET OUTLOOK

[In billion dollars]

| | Fiscal years— | | | |
|---|---|---|---|---|
| | 1982 | 1983 | 1984 | 1985 |
| Congressional Budget Office | | | | |
| Receipts | 631 | 652 | 701 | 763 |
| Outlays | 740 | 809 | 889 | 971 |
| Deficit | −109 | −157 | −188 | −208 |
| President Reagan: | | | | |
| Receipts | 627 | 666 | 723 | 797 |
| Outlays | 725 | 758 | 806 | 869 |
| Deficit | −98 | −92 | −83 | −72 |
| Modified Reagan budget: | | | | |
| Receipts | 631 | 658 | 710 | 772 |
| Outlays | 736 | 794 | 867 | 954 |
| Deficit | −105 | −136 | −157 | −182 |
| Modified Reagan budget at high employment (6 percent unemployment): | | | | |
| Receipts | 684 | 700 | 743 | 802 |
| Outlays | 721 | 783 | 859 | 946 |
| Deficit | −37 | −83 | −116 | −144 |
| Ratio high-employment deficit to GNP percent | 1.1 | 2.2 | 2.9 | 3.3 |

Actual civilian budget cuts and tax boosts will be about half of the amounts projected by the President.

Defense spending will grow at the Reagan pace, reaching $292 billion a year by 1985 rather than the CBO projection of $263 billion. Congress will make some defense cuts, but they will be offset by price and cost increases exceeding the Pentagon's usual optimistic estimates.

Interest costs will be sharply above the Reagan estimates because deficits will be higher and interest rates, as CBO projects, will also be higher.

Under this modified Reagan scenario (which incorporates the optimistic Reagan projection that recession will soon be over and growth will then be sustained at about a 5% rate), the actual deficits would weigh in at $105 billion this year and rise to $182 billion by 1985.

Even if we shift to a steady "high employment" basis in order to eliminate the impact of economic fluctuations on the budget (and thereby to isolate and identify changes in fiscal policy), we find the deficit rising from $37 billion this year to $144 billion in 1985. The deficit at high employment would triple from 1.1% of GNP this year to 3.3% in 1985, reflecting the highly expansionary fiscal policy that is so troubling to the Fed.

These projected deficits are bad enough. But they are by no means a "worst case" estimate. They don't, for example, include off-budget borrowing that the White House optimistically forecasts at $60 billion for the next four years, when it is more likely to be $80 billion. And if real GNP were to grow at only 3% in 1983-84 instead of 5%, the deficits would rise a further $40 billion to $50 billion a year. Small wonder that the financial markets are assessing the deficit outlook between grim and grisly, and the outlook for interest rates between discouraging and devastating.

The budget trap, then, is far deeper than the Reagan budget would have us believe. And as the economic battle lines are now drawn, the prospects for escape are bleak. One could imagine Congress finding ways to cut non-defense spending by about $25 billion to $30 billion a year by 1984 and patching together tax hikes of another $25 billion to $30 billion by then. But that would still leave the modified Reagan budget $100 billion in deficit (or $60 billion at high employment).

That effort, while requiring great political will, would simply not provide a sufficient basis for detente with the Federal Reserve. Granted, in an economy wracked by three years of stagnation and recession. The Fed could on its own relent and seek to reduce the record-high real interest rates (long-term rates less prospective inflation rates). But Mr. Volcker has just thrown down the gauntlet again: Without sharp cuts in deficits, don't look for sharp cuts in interest rates.

The truly sad thing about Mr. Reagan's budget stance—his stonewalling that masquerades as steadfastness—is that a strategically plausible, economically positive and politically palatable alternative lies within his reach.

A Reagan initiative to lead us out of our economic trap would have the following main elements:

Announce that while he holds to his long-term goals, he recognizes that his tax, budget and defense programs are trying to do too much too soon; that the budgetary and monetary strains, the economic disruptions and the human costs are proving to be too great.

Convene a summit "economic disarmament conference" among the three co-ordinate branches of economic government—the White House, Congress and the Fed—to hammer out an agreed agenda to end the recession, promote sustained growth and curb inflation. (Under our separation of powers. it has to be an informal accord, not a contract signed in blood.)

The centerpiece of the accord would consist of two parts. The first would be a pledge by the White House to slow the tax cuts and the defense buildup for 1983 and beyond while continuing to make carefully targeted cuts in non-defense spending. Putting the final stage of the personal income tax cuts and indexing on "hold" would by itself cut the deficit by $60 billion to $70 billion by 1985.

Second, strike a firm bargain with the Fed (the 1951 accord provides a notable precedent) under which the Fed, in exchange for the deficit cutbacks it has been demanding, would agree to accommodate expansion by raising its monetary sights and lowering real interest rates. Such an accord would recognize the true lesson of the 1964 tax cut, namely, that tax cuts consistent with shrinking deficits can be accommodated rather than vetoed by Fed policy.

Having removed the monetary barrier to a climb-out from the rut of recession and stagnation, take a futher step to speed the day of recovery: speed the 1982 personal tax cuts—to Jan. 1 if technically feasible, otherwise to April 1. This would temporarily boost the deficit in a soft economy that can stand it, while paying off handsomely in speedier shrinkage of deficits as the economy expands.

Reinforce the improving inflation outlook—and we may well be on the threshold of a lower plateau of inflation—by a presidential appeal to big business and big labor to moderate their wage and price behavior in exchange for the improved job and profit opportunities generated by lower interest rates and more rapid expansion. Such an appeal would go against Mr. Reagan's grain. But perhaps he could undertake it in the name of the voluntarism in the private sector that he has so strongly urged.

It is hard to see anything but winners from such an economic disarmament agreement:

The President would emerge as an economic statesman willing to change course to get and keep the economy moving again.

Volcker the villian would become Volcker the valiant.

Incumbent Congressman could claim their share of the credit for the brighter economic skies generated by quicker tax cuts and lower interest rates and for bringing the gigantic future deficits under control.

Wall Street would rejoice in the lower deficits and interest rates, while Main Street would be relieved of the heavy yoke of intolerably high interest rates that threaten bankruptcies of financial institutions and small businesses in particular.

The business community in general, eager to capitalize on the accelerated depreciation bonanza in the 1981 tax act, would find its generous tax incentives, hitherto stifled by sky-high interest rates and weak markets, newly buttressed by falling real interest rates and strengthening markets.

MIGHT LIKE THE TRADE-OFF

Even the intended beneficiaries of the third-stage tax cut and indexing might like the trade-off facing them: In exchange for forgoing their tax benefits for a time, they would welcome the lower deficits, lower interest rates, rising stock and bond prices and higher income and investment that would grow out of Mr. Reagan's change of course.

Who might lose? If it were seen as a Reagan triumph rather than a response to Democratic initiatives, the reinvigoration of the economy might forestall the resurgence of the Democrats at the polls next November. But that's a risk that a truly loyal opposition has to take.

Mr. Reagan will have to recognize that by breaking the economic stalemate in this manner he can set the economy on a path of sustained expansion without reigniting the fires of inflation. There will be more for everyone. And if critics challenge Mr. Reagan for changing his course, he could parry their thrust with Winston Churchill's words: "I neither withdraw nor apologize for anything that I have said at any time, believing as I do that anything which I may have said at any time was perfectly justified by the special circumstances of that time and by the amount of information I may have had in my possession."

[From the Washington Post, Feb. 28, 1982]

THE ECONOMY: WHAT IF WE HAD DONE IT RIGHT?

SWEEP AWAY THE DOGMA—AND THE DAMAGE

(By Robert J. Gordon)

As usual each winter, journalists have focused myopically on the current debate about whether to push the buget a few inches to the left or right. To gain a fresh perspective and think in feet, not inches, let us rewind history to Jan. 20, 1981, and pretend that economic progress had never been sidetracked by Reaganomics. Our story takes the form of a set of policies instituted by an imaginary, newly elected party called "The Center."

As 1981 began, all Center Party officials agreed that the nation's two basic economic problems were excessive inflation and the disappearance of productivity growth. Also high on the agenda were the perennial problems of poverty and economic inequality. Two key decisions formed the heart of the new administration's program. First, the conquest of inflation had to take a back seat to raising productivity. Second, progress on productivity required abandonment of decades of liberal and conservative dogma; human capabilities and skills had to be developed without any further increase of the share of government spending in national income.

Ending inflation appeared to require either wage and price controls, or the traditional "brute force" method of tight money, layoffs and bankruptcies. But either of these solutions would have run into the same institutional roadblock: the unique American system of three-year union wage contracts having staggered expiration dates. If the United States had shared the Japanese system of one-year contracts expiring simultaneously each spring, then the new Center administration could have slowed the growth of wages, prices and the money supply simultaneously in the spring of 1981 when those contracts expired.

Because of the U.S. contract system, however, wage controls would be unfair and unworkable, while tight money would not instantly end inflation. Instead, each union would try to emulate the wage increases negotiated in still-effective 1979-80 contracts that they knew would continue to push up the cost of living in 1981-82. Thus, tight money would duplicate the Thatcher scenario in the United Kingdom—falling production and rising unemployment, with slower inflation coming slowly and painfully.

The Center administration rejected the high-unemployment solution to inflation. A tactic better suited to cavemen, it would have amounted to little more than the Federal Reserve's hitting the labor unions over the head with a club. The resulting blood bath would have been no ordinary recession, but a half-decade-long slump costing $1,000 billion, or $10,000 per family, in lost income and production. Even worse, the high-employment tight-money tactic would have derailed the more pressing task of resuscitating productivity growth. Faster growth required each worker to be provided with more modern equipment, and it was no less important to make workers better able to read, to program computers and otherwise qualify for skilled job slots. The caveman approach would erode the incentive to invest by cutting factory utilization and raising real interest rates, while making business firms unwilling and unable to provide manpower training.

The revival of productivity growth required a higher share of gross national product going to investment in plants, machines and people, and a smaller share going to consumption. To encourage saving, the Center administration introduced a five-year tax reform package that ended the taxation of saving by steadily lifting the legal limits on Keogh and IRA deductions, thus in effect shifting to a progressive consumption tax. At the same time, tax rules were rewritten to allow borrowers to deduct only "real" inflation-adjusted interest payments.

Administration officials were disturbed that the Japanese, with half our population, were training 50 percent more electrical engineers, that U.S. schools were starved for teachers of computer science, and that SAT scores had been falling for almost two decades. To foster human investment without raising the share of government spending in GNP, the federal budget was redirected away from enforcing environmental regulations that hindered productivity and from multi-billion dollar synthetic fuel projects that had little social payoff. To expand engineering and computer science training, bonuses were provided for teachers in these shortage areas. To stimulate vocational training, student loan programs were liberalized, but extra budgetary cost avoided by charging market interest rates and requiring borrowers to repay loans through IRS-enforced payroll deductions from future earnings. Reading skills in elementary and secondary schools were fostered by providing bribes for states to reorient curricula toward the "3 Rs." Ghetto youths were encouraged to stay in school by generous federal allotments of personal computers for inner-city classrooms. Ghetto jobs were encouraged by avoiding recessions, by elimination of the minimum wage and by a national identity card system to control competition for jobs by illegal aliens.

Also disturbing was growing evidence that a Japanese management takeover seemed to be the best way to boost an American factory's productivity, making officials doubt the superiority of U.S. business executives and graduate business education. As officials developed new corporate tax rules, they designed special breaks for firms that introduced profit-sharing bonus payments, greater in-plant worker-manager equality, and other hallmarks of Japanese industrial relations.

The administration saw through the media hysteria about inflation; the public was less bothered by inflation itself than by (1) the squeeze on real earnings imposed by the 1974 and 1979 oil price hikes, and by (2) the costs that inflation needlessly imposed through tax rules that soaked savers and rewarded borrowers. To cope with 1), a heavy tax was levied on oil imports to raise U.S. gasoline prices toward European levels, thus reducing oil demand and putting downward pressure on the OPEC oil price. The proceeds of the oil import tax were used to bribe the states to reduce their retail sales tax rates, thus minimizing its inflationary impact. To cope with 2), the tax reforms designed to encourage saving, including the shift to a progressive consumption tax, and the reform of interest deductions, had the side benefit of reducing the costs of inflation.

The tax reform and training subsidies were accomplished without a budget deficit, an apparent miracle that was achieved not just by avoiding a tight-money recession, but also through reform of Social Security financing that gradually increased the eligibility age from 65 to 68. Cost-of-living adjustments in Social Security benefits were omitted for one year to offset the mismeasurement of inflation by the consumer price index between 1977 and 1981. Defense preparedness was improved without a massive spending increase by the new administration's refusal to fund the B1 bomber, MX missile and other strategic programs of dubious value, and by a vigorous campaign against damn-the-cost weapons procurement.

Overall, the share of government spending in GNP was held constant, while tax rates were set to yield a surplus at a 6 percent unemployment rate. The Federal Reserve was instructed to keep the unemployment rate from rising above 7 percent, but to prevent it from falling into the "danger zone" below 6 percent, to avoid the acceleration of inflation that had occurred in 1964-69, 1972-73 and 1978-79. An unemployment rate below 6 percent could not be achieved by monetary expansion, but had to wait for the long-run payoff of training and education programs aimed at reducing the perennial mismatch between job requirements and the capabilities of unemployment individuals.

Compared with the Center Party's program, Reaganomics seems stunningly misdirected in almost every aspect, from its caveman monetary policy, to its gold-plated defense budget, to its disregard for the long-run payoffs of training and education. We still await the new broom of a politician who will sweep away the liberal and conservative dogmas of the past, as well as the damage inflicted in 1981-82.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

MARCH 1, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
*Speaker, House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: This is to notify you pursuant to the provisions of Rule L (50) that I have received a subpoena in *George H. Benford* v. *American Broadcasting Companies, Inc., et al.*, calling for the production of certain documents in my possession. This subpoena relates to a cause of action involving employees of the Select Committee on Aging.

Sincerely,

EDMUND L. HENSHAW, Jr.,
*Clerk, House of Representatives.*

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *March 1, 1982.*

Hon. THOMAS P. O'NEILL, Jr.,
*Speaker, House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit a sealed envelope from The White House, received in the Clerk's Office at 4:35 p.m. on Monday, March 1, 1982 and said to contain a message from the President whereby he transmits a Special Message on Small Business together with the First Annual Report on Small Business.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
*Clerk, House of Representatives.*

## REPORT ON SMALL BUSINESS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Small Business.

(For message, see proceedings of the Senate of yesterday, March 1, 1982.)

□ 1545

## FOURTEENTH ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION — MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committees on Energy and Commerce, Merchant Marine and Fisheries, and Public Works and Transportation:

(For message, see proceedings of the Senate of today, March 2, 1982.)

## TAX JUSTICE FOR FISHERMEN

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, I am today introducing legislation to ease a situation that has created a tremendous burden for commercial fishermen in California and in other areas of the country.

Because of a provision in the 1976 Tax Reform Act, fishermen working on a boat with fewer than 10 members in the crew are considered to be self-employed for Federal tax purposes, if they are paid by receiving a share of the boat's catch of fish or other forms of aquatic animal life.

I have been informed that this provision was originally designed for the benefit of a small number of fishermen in certain areas of the country who apparently favored such a revision of the previous law. However, this provision has proven to be very unfavorable to the commercial fishermen in my area and throughout the State of California for several reasons.

Under the 1976 act, only those fishermen who work on boats with crews of 10 or fewer men must pay self-em-

ployment taxes on a quarterly basis and large income taxes at the end of the year, since no taxes are withheld from their checks. This arrangement is not only unfair to this group of fishermen, but it actually works as an incentive for a boatowner to lower the number of crewmembers he employs in order to avoid contributing to social security and processing withholding taxes. In addition, this situation often results in treating the same fishermen in two different ways, depending on whether he works on a boat with fewer or more than 10 members.

The legislation I am introducing today amends the language in the Tax Reform Act of 1976 to make it apply only to boats with fewer than six crewmembers. This change removes most boats with reasonably sized crews from coverage, thus returning to the fishermen their status as employees, a status they have traditionally held. My bill is flexible, though, in that it permits very small crews to maintain their status as self-employed individuals for tax purposes.

It is clear to me that this provision of the Tax Reform Act of 1976 has created unnecessary confusion and unfair treatment of fishermen. I certainly hope that the House will agree and will move to end this injustice.

Mr. Speaker, I include the text of my bill at this point in the RECORD:

H.R. 5677

A bill to amend the Internal Revenue Code of 1954 to treat as employees, for purposes of withholding and social security taxes, certain fishermen who comprise the operating crew of a boat if the operating crew normally consists of more than 5 individuals

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) paragraph (20) of section 3121(b) of the Internal Revenue Code of 1954 (defining employment for purposes of the Federal Insurance Contributions Act) is amended by striking out "fewer than 10 individuals" and inserting in lieu thereof "fewer than 6 individuals".

(b) Paragraph (20) of section 210(a) of the Social Security Act (defining employment) is amended by striking out "fewer than 10 individuals" and inserting in lieu thereof "fewer than 6 individuals".

(c) The amendments made by subsections (a) and (b) shall apply to services performed after December 31, 1981.

## WORLD DAY OF PROTEST FOR IDA NUDEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LENT) is recognized for 30 minutes.

GENERAL LEAVE

Mr. LENT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous material, on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LENT. Mr. Speaker, I requested today's special order on behalf of a most remarkable, most courageous woman, the only Jewish woman now held as a Prisoner of Conscience in the Soviet Union, Ida Nudel. This special order is being held as part of a worldwide day of protest in support of her efforts to realize her greatest dream: Freedom in Israel.

It is tremendously gratifying to see so many of my colleagues sharing in this special order. I deeply appreciate the cooperation of my colleagues. Your support will be effective. The remarks of every Member participating today will be sent to Soviet President Leonid Brezhnev, and to his chief representative in the United States, Ambassador Antoly F. Dobrynin.

Mr. Speaker, in the long struggle for human rights, the epic story of Ida Nudel stands out like a lighthouse beam in the dark of night. Almost 11 years ago, Ida Nudel, an economist and a resident of Moscow, applied for an emigration visa to go to Israel. Her husband and sister were permitted to leave, but not Ida. As has been the case with thousands of Soviet Jews, the officialdom of the Soviet Union refused her request. They claimed that Ida Nudel possessed "state secrets" and could not be permitted to leave.

What a travesty! Her work actually dealt with maintaining hygienic standards in food stores and control of infection in foods. Ida herself has declared: "The biggest secret I had was in knowing where the mice built their nests."

For 7 long years, separated from her family, Ida Nudel continued her efforts to get her visa. Even more, she began to help and care for other Soviet Jews in similar circumstances, and particularly came to the aid of those who had been imprisoned for their efforts to win freedom. The beneficiaries of her ministrations began to call her "Guardian Angel." While her efforts won her the acclaim of the other refuseniks, they also resulted in increasing harassment and interrogations by the Soviet authorities. This persecution reached its climax on June 1, 1978, when she was arrested on a charge of "malicious hooliganism." Ostensibly her crime was to hang a banner outside her apartment that read: "KGB Give Me My Visa!" But actually, as she told the court, she was standing trial for her work over the past 7 years. She was sentenced to 4 years in exile in a bleak village in the remote wastelands of Siberia.

As she was sentenced she told the court:

The past 7 years of my life for which I sit in the dock today were the most difficult and yet at the same time the happiest years of my life. During the past 7 years I have learned to walk proudly with my head held high as a human being and as a Jewish woman.

Throughout her years of lonely exile, Ida Nudel has kept that same indomitable spirit, that same indefatigable belief in the future. After her imprisonment, I adopted Ida Nudel as my Fourth Congressional District's Prisioner of Conscience, writing her every week to report on my efforts to win her freedom. One memorable day, I received a reply from Ida Nudel. In a postcard written from the small village where she is confined, Ida thanked me for my efforts and declared stoutly: "Don't give up, be stubborn and you will succeed." What great courage expressed by this woman!

Mr. Speaker, at this time I would like to yield to an outstanding colleague from the State of New York, a member of the House Committee on Foreign Affairs, Congressman GILMAN.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to take this opportunity to join my colleagues in this World Day of Protest on behalf of Ida Nudel and commend the gentleman from New York (Mr. LENT) for taking the time in this special order to devote attention to this important issue.

Ida Nudel has been called the "Guardian Angel" for her selfless work to aid Soviet Prisoners of Conscience like herself. Since she was sentenced, in 1978, to serve a 4-year sentence in exile in Siberia, Ida Nudel has received wide support from people throughout the United States. Along with many of my colleagues in the Congress, I have pleaded for Ida's release. Her imprisonment has been condemned by the United States as a severe violation of the Helsinki accords, in which the Soviet Union voluntarily promised to allow its citizens the exercise of their basic human rights.

Ida Nudel will be 51 years old in April. She is not only the sole Jewish woman prisoner, but also one of the three oldest Soviet Jews who are currently serving sentences.

Mr. Speaker, how much longer must Ida's endurance be tested? Her health is poor, and yet no action has been taken to improve conditions for her.

Ida Nudel was arrested in 1978 and sentenced on charges of "malicious hooliganism." If the attempt to exercise one's own basic human rights can be defined as such, then, certainly, we are all hooligans. Ida Nudel has been punished for maintaining principles to which we are all committed. And we must continue to fight for those principles, for Ida and for all Prisoners of Conscience throughout the world.

Ida Nudel is due to be released on the 20th of this month, nearly 11 years since she first petitioned the

Soviet Union for an exit visa. Once again, I join my colleagues in urging the Soviet Union to allow Ida to finally embark upon her chosen destiny, Israel.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. LENT. Mr. Speaker, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding. I think there is little more to say when we hear of such suffering and such courage. I would like to associate myself with the remarks of the gentleman in the well.

I thank my colleague for giving me this time.

Mr. LENT. Mr. Speaker, I want to thank the gentleman from New York (Mr. GILMAN) for his remarks and commend him for the dynamic leadership that he has demonstrated over the years in the great fight for Soviet Jewry.

As the gentleman has indicated, today, freedom is closer than ever for Ida Nudel. It is anticipated that she will be released from exile later this month. We must make certain that she is also given that visa to Israel that she has sought for nearly 11 years. The Union of Council for Soviet Jews, working with Israel's President Navon, has organized an international protest today. That is why we are here in this Chamber today, Mr. Speaker. Our words here will be sent to the Kremlin to join those coming from all over the world. Our demand is simple and just. Give Ida Nudel her freedom in Israel!

Free Ida Nudel now!

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. LENT. I will be happy to yield to my colleague from New York.

Mr. WEISS. Mr. Speaker, I first want to commend the gentleman from New York (Mr. LENT) for arranging this special order. In Congress and across the Nation, he is highly regarded for his commitment to the rights of Soviet Jews.

The plight of Ida Nudel, "Guardian Angel" of the Soviet Prisoners of Conscience, concerns all Americans and everyone around the globe who cares about human rights. The harsh treatment that she has endured reminds all of us that the Soviet Union continues to deny basic rights to Soviet Jews.

Ida Nudel, the only Jewish woman being held as a prisoner of conscience in the Soviet Union, first attempted to emigrate in 1971. After her request was denied, she began her heroic efforts to support Soviet Jews who had been jailed for their beliefs. For the next 7 years, she was harassed, interrogated and falsely branded as a criminal. Finally, she was arrested for hanging a banner outside her Moscow home that said, "KGB, Give Me My Visa." They arrested her for "malicious hooliganism" and sentenced her to Siberia where she has been confined to a small village for the past 4 years.

The whole world knows of the struggles of Soviet Jewry and the denial of their rights to practice their faith or to emigrate to a land where they can do so in freedom. Only since 1969 have Jews been able, though with extreme difficulty, to emigrate from the Soviet Union. In the past couple years, however, the emigration of Jews has slowed considerably. The data for 1981 reveal a 90 percent decline from the peak emigration year of 1979 when more than 51,000 left the country.

As the door to emigration swings shut, life grows even worse for the Jews remaining in the country. In recent months, Soviet refusenik communities have been abused in several major Soviet cities. Jews who wish to study Hebrew, celebrate their holidays or attend Jewish events have had their homes invaded and their possessions confiscated. Their educational and employment opportunities have been severely restricted. Antisemitic propaganda remains pervasive in the Soviet media and is part of a compulsory indoctrination program for new army recruits.

On this World Day of Protest on behalf of Ida Nudel, we must let our voices be heard in strong support of human rights everywhere and specifically for Jews in the Soviet Union. The courage and spirit of Ida Nudel are an inspiration to all, reminding us that we must not rest in our protests. We must remind the Soviet Union that we will continue to speak out as long as Ida Nudel and others like her are being denied their basic human rights.

□ 1600

Again I want to express my appreciation to my distinguished friend from New York (Mr. LENT) for calling for this special order and for yielding this time to me.

Mr. LENT. I want to reciprocate and thank my colleague from New York for his sponsorship and for his contribution today.

● Mr. FRANK. Mr. Speaker, I wish to join my colleagues in expressing solidarity with concerned individuals throughout the world who are today observing a Day of World Protest for Ida Nudel, a Soviet Jew who has been serving a 4-year sentence in exile in Siberia.

The formal charge against her is "malicious hooliganism," but her real crime is that Ida Nudel has sought for almost 11 years to obtain a visa to leave the Soviet Union in order to join her sister is Israel.

Last year, a mere 9,249 Jews were allowed to leave the Soviet Union, compared to 51,000 in 1979. In this time of tense relations between the Soviet Union and the United States, the release of Ida Nudel would be seen by all as a welcome gesture of good will, and a step toward improved relations between our two nations.

Ida Nudel will be eligible for release from her Siberian work camp on March 20. Her sister in Israel last week said "She's had enough. She has a right to live in Israel as a human being." I agree and hope that our efforts here today will add to the growing international campaign urging her release.●

● Mr. FASCELL. Mr. Speaker, I am pleased to join our colleagues in the House in paying tribute to a remarkable and courageous woman. I commend Representative LENT for organizing this special order in honor of Ida Nudel.

Ida Nudel, a Soviet Jewish woman who turned 50 last year, is due to be released from Siberian exile on March 20, 1982. She has endured 4 years of hardship in a remote Siberian village, living among hostile neighbors and under primitive conditions. Her health has deteriorated during her forced isolation; for the past 4 years, she has been virtually cut off from her family and her many friends in the Soviet Union and the West.

The "crime" for which Ida was subjected to such harsh punishment was her 1971 application to emigrate to Israel and her selfless efforts in behalf of those Soviet Jews imprisoned for trying to emigrate. Tragically, in 1978, Ida joined the ranks of those she had so valiantly sought to help.

The plight of Ida Nudel has evoked concern in communities throughout Europe, Australia, Israel, North and South America. Her case was raised by the U.S. delegation to the Madrid review meeting of the Conference on Security and Cooperation in Europe (CSCE) of which I serve as vice chairman. Now, on the eve of her scheduled release, we in the Congress appeal to Soviet authorities to allow Ida Nudel to realize her long-held dream and be reunited with her only living relative, her sister, in Israel. Certainly, after paying so dearly for that right, she is entitled to exercise it.●

● Mr. BONKER. Mr. Speaker, I appreciate this opportunity to join my distinguished colleague, Representative NORMAN F. LENT, and others as we express our concern about Ida Nudel on this World Day of Protest in her behalf.

I, and the Subcommittee on Human Rights and International Organizations, which I chair, have long been involved in the case of Ida Nudel. Just recently, I sent yet another letter to the Soviet authorities urging that she be released when her sentence expires this month and permitted to join her sister in Israel. A copy of that letter follows.

As the only Jewish woman now held as a prisoner of conscience in the Soviet Union, Ida Nudel's case is especially poignant. As such, she symbolizes the systematic harassment and persecution of the Jewish community in the Soviet Union, where literature is confiscated, Hebrew teachers harassed and jailed, and Jewish families separated through cruel and arbitrary emigration discrimination.

It is fitting that as the U.S. Congress pays special recognition to Ida Nudel, we also spoke out on the general problem of repression of the Jewish community in the Soviet Union by passing House Joint Resolution 373 a sense of Congress resolution sponsored by our distinguished colleague from Colorado, PATRICIA SCHROEDER. This resolution calls upon our President to make representation to the Soviet Union about this problem, and further instructs the President to send this message through our delegates to the United Nations Commission on Human Rights, currently meeting in Geneva. The resolution was passed by the Subcommittee on Human Rights and International Organizations on February 3, and by the full Foreign Affairs Committee on February 25.

COMMITTEE ON FOREIGN AFFAIRS,
*Washington, D.C., February 11, 1982.*

Chairman L. I. BREZHNEV,
*Moskva, Kreml, Generalnomu Sekretaryu, TSK KPSS i Predsedatelyu Prezidiuma, Verkhovnogo Soveta S.S.S.R., L. I. Brezhnevu.*

DEAR MR. CHAIRMAN: Once again, I would like to take this opportunity to express my personal concern about the case of Ida Nudel, a political prisoner in internal exile in Siberia. It is my understanding that her sentence will be completed this March, and I earnestly hope that she will be released and permitted to emigrate to Israel.

Ida Nudel has suffered much. For humanitarian reasons, I appeal to you to let her join her sister in Israel.

Respectfully,

DON BONKER,
*Chairman, Subcommittee on Human Rights and International Organizations.*●

● Mr. ROE. Mr. Speaker, I rise today on behalf of a woman for whom the term "bravery" does not do justice. I am, of course, referring to Ida Nudel, the only Jewish woman now being held illegally in a Soviet prison camp as a political prisoner.

Ida Nudel will soon be released from that prison camp after 4 years of unwarranted detention. Her only wish is that she be allowed to emigrate to Israel where she can be reunited with her sister, who is Ida Nudel's only living relative.

I have joined with many of our colleagues in communicating with Ambassador Anatoly Dobrynin urgently requesting that she be allowed to move to Israel as soon as she is released.

Mr. Speaker, Ida Nudel's only "crime" was her desire to help other Jewish prisoners of conscience and to leave the dreaded Soviet Union for a life of freedom in Israel.

Ida Nudel first applied for a visa to leave Russia in 1971, but that was rejected many times by the Soviet authorities. It was during this time that she became acquainted with the hundreds of other Jewish prisoners who had been jailed because of their outspokenness in the cause of basic human rights.

Her unselfish care for them earned her the title, "Guardian Angel of the Prisoners of Conscience," but also brought on the wrath of the Soviet secret police.

For many years Ida Nudel suffered punishments and humiliation at the hands of the KGB which attempted to brand her as a criminal. She was finally arrested on June 1, 1978, on a charge of "malicious hooliganism" for hanging a banner outside her Moscow apartment that read: "KGB Give Me My Visa." Following a sham of a trial, she was sentenced to 4 years in Siberia.

Mr. Speaker, I pray that life will shortly find Ida Nudel released from her bondage and allowed into the promised land of Israel.●

● Mr. ADDABBO. Mr. Speaker, today we once again join the ever-growing number of voices demanding freedom for Ida Nudel. Her case is a glaring example of the Soviet Union's failure to honor its international human rights commitments. We must call attention to her plight and remind civilized nations around the world that she, and countless others, have been continually harassed and denied the right to emigrate as guaranteed by the Helsinki accords.

In 1971, Ms. Nudel first applied for emigration from the Soviet Union. This request was denied, allegedly because of her knowledge of "state secrets." At this time she began her efforts to help care for and support jewish prisoners who had been jailed for their beliefs. For the next 7 years, Ida Nudel was harassed, intimidated, and libeled by the Soviet authorities. She was then arrested on the charge of "malicious holliganism"—an all too common charge in the Soviet Union—and sentenced to 4 years of internal exile in Siberia.

The Soviets maintain that their treatement of Ida Nudel is totally an internal Soviet matter. We must vehemently disagree. As a leader of the free world, the United States must constantly reaffirm its moral obligations to oppressed people everywhere. It is most important that we continue to remind the Soviet Union that we are both informed and deeply concerned about its policy toward its Jewish citizens.

Ida Nudel has devoted her life to fighting against the unrelenting persecution and oppression of Jews in the Soviet Union. Her unfailing spirit and courage in the face of continued harassment serves as a symbol of hope to those who speak out for fundamental rights and freedoms everywhere. We would do well today to remember Ida Nudel's words of March 1980:

It seems to me that an individual's opposition to social injustice acquires significance only when it is supported and encouraged by the men of good will all over the world.●

● Mr. WIRTH. Mr. Speaker, I join my colleagues in the House—and thousands around the world—in demanding that the Soviet Government allow Ida Nudel to freely emigrate following her release from internal exile. Our protest is aimed at securing only this small measure of decency from Soviet authorities.

Ida Nudel has distinguished herself as a leading woman dissident in the Soviet Union. Her history—a story of personal courage and state persecution—is known to us all. What began as a simple attempt to emigrate grew into a tireless campaign of conscience. Our efforts are to insure that Ida Nudel's story does not end in despair.

Ida Nudel was banished to Siberian exile not because she pursued her own desire for freedom but because she represented the interests of others so well. In recognition of her efforts on behalf of prisoners of the Soviet state, she has come to be known inside and outside the Soviet Union as the Guardian Angel. Mr. Speaker, the task of guarding Ida Nudel's future is now ours.

During her trial, Ida Nudel told her prosecutors that she had "learned to walk proudly with my head high as a human being and as a Jewish woman." Hers is an example of the spirit that lives on in the Soviet Union despite crushing repression. It is a spirit that, with our help, will continue to live.●

● Mr. WAXMAN. Mr. Speaker, I am proud to join in a protest on behalf of Ida Nudel, who has protested and struggled on behalf of so many of her brethren in the Soviet Union. Ms. Nudel, an economist and resident of Moscow, first applied for an emigration visa to Israel in May 1971. Like countless others, her request was denied on the basis of "state secrets." For the next 7 years, Ida Nudel worked tirelessly to improve the lives of Jews imprisoned for their beliefs. She became known as the Guardian Angel of the Prisoners of Conscience, and inevitably attracted the attention of the KGB. Long years of harassment by the secret police culminated in her arrest on June 1, 1978, for hanging a banner outside her Moscow apartment which read "KBG, Give Me My Visa."

Ida Nudel is now the only Jewish woman held as a prisoner of conscience in the Soviet Union. In spite of internal exile in a small town in Siberia, she remains undaunted by her op-

pressors. As she herself has said, her 7 years of giving, that daily battle to earn for herself and others their unquestionable rights, are a source of strength and courage which belong to her and all those whose lives she has touched.

We call on President Brezhnev and Ambassador Dobrynin to perform their simple duty toward their countrywoman. Allow Ida Nudel to live in the land of her choice.●

● Mr. MOAKLEY. Mr. Speaker, I rise today to join with my colleagues and concerned citizens around the globe, in calling for the release from exile of Ida Nudel, the Guardian Angel of Moscow. This extraordinary woman has spent the last 7 years of her life in dedicated service to the cause of Soviet refuseniks. She has offered them care and shelter from the political vortex around them. With virtually no thought of her own safety, Ida Nudel provided protection for refuseniks who were seeking emigration visas to Israel. When there seemed to be nowhere else to go, these people could always find refuge with their Guardian Angel.

Ida Nudel's life has been continually plagued by the Russian KGB, who have had knowledge of her activities. Although there was little the secret police could do previously, they finally succeeded in arresting her, and subsequently sentencing her to 4 years in Siberian internal exile. Her continual desire to protect her fellow refuseniks finally led Ida to her present state of exile.

In this great country of ours, we have the ability to practice our diverse political views without fear of harassment or retribution. It is a right many of us have taken for granted. However, in the Soviet Union, it is a right citizens have little knowledge of. Or, if they try availing themselves of this privilege, they may find themselves in the difficult position of being imprisoned, as did Ida Nudel.

Today we are a part of a World Day of Protest for this remarkable woman, in order for her to obtain emigration rights to Israel. Let those of us, who have the cherished right of freedom, speak out for fellow human beings and clearly in the ears of the Soviet Union and all people as well, so that they will be assured that we care very deeply about Ida Nudel and the refuseniks in their quest for freedom.●

● Mr. FISH. Mr. Speaker, I join my colleagues today in a World Day of Protest on behalf of Ida Nudel. For the past decade, I have written letters, attempted contact with Soviet officials, and taken every step possible to seek the release of this brave and courageous woman. I appreciate the time taken today by the gentleman from New York (Mr. LENT) to again focus attention on the plight of Ida Nudel.

Ida Nudel is the only Jewish female Prisoner of Conscience in the Soviet Union. Her release is scheduled for this spring. Ida has spent 4 years in exile and suffered through harsh Siberian winters. She has withstood extremely difficult mental conditions as well, as the town in which she lives castigates her as a pariah, and her contact with the outside world is virtually nonexistent. We do not even know if she is aware of our efforts on her behalf.

Ida Nudel exemplifies the courage and stamina displayed by many Prisoners of Conscience who have suffered from Soviet repression and harassment. After filing her first exit visa application in 1971, Ida became actively involved in the Jewish emigration movement. She is known as the Guardian Angel of the many Prisoners of Conscience to whom she writes and expresses her moral and emotional support. Her only crime was her desire to emigrate and her tireless efforts to help those like her whose only dream is to live in freedom.

I have encouraged the U.S. Government to raise their voice on Ida's behalf. On January 20, I wrote to Secretary of State Alexander Haig, asking that he raise Ida's case with Soviet Foreign Minister Andrei Gromyko at their meeting. The response I received from the State Department reiterates the administration's commitment to expressing the great concern of the U.S. Congress and the American people for Soviet Prisoners of Conscience and the continued repression of Soviet Jews. The State Department letter notes that Secretary Haig raised the issue of basic rights with Mr. Gromyko and would continue to do so at every opportunity.

I would like to share my letter and the State Department's response with my colleagues. It is my hope that our efforts on behalf of Ida Nudel will enable her to soon be in Israel with her sister and fulfill her dream of freedom.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES
*Washington, D.C., January 20, 1982.*

Hon. ALEXANDER M. HAIG, Jr.,
*Secretary of State,*
*Washington, D.C.*

DEAR MR. SECRETARY: I wish you continued success in your upcoming talks with Soviet Foreign Minister Andrei Gromyko. Your discussions last fall opened important channels of communication between our country and the Soviet Union and you are to be applauded for your efforts.

As you may recall, I wrote you at that time to urge you to express the continuing concern of myself and many of my colleagues in the House of Representatives over Soviet adherence to international agreements on basic rights. These include the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights. The continued decrease in Soviet Jewish emigration is quite distressing, with no relief in sight for the forseeable future.

The current situation faced by Ida Nudel is a prime case in point of Soviet failure to live up to its international commitments. Ida Nudel is the only female prisoner of conscience whose release is scheduled to occur this spring. She is one of the three oldest serving sentences in exile or jail. To date, all appeals on behalf of Ida Nudel have been rejected by Soviet authorities. One more winter of Siberian exile will clearly have a detrimental effect on her health in the future.

I would appreciate your bringing this situation to the attention of Foreign Minister Gromyko. The case of Ida Nudel is, of course, only one of many which Soviet authorities should be reminded at every opportunity. But her case deserves special notice after ten years of trying to join her family in Israel. Ida Nudel should be permitted to leave the Soviet Union as soon as possible. She has suffered enough.

Sincerely,

HAMILTON FISH, Jr.,
*Member of Congress.*

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DEPARTMENT OF STATE,
*Washington, D.C., February 10, 1982.*

Hon. HAMILTON FISH, Jr.,
*House of Representatives.*

DEAR MR. FISH: I am responding to your letter of January 20 requesting that Secretary Haig raise with Soviet Foreign Minister Gromyko the general issue of Soviet persecution and harassment of its Jewish citizens as well as the specific case of Ida Nudel.

As you know, the United States Government has consistently encouraged Soviet authorities to be less harsh and more responsive toward Soviet Jews who desire to exercise fundamental human rights, in particular freedom of religion and emigration. Both publicly and via diplomatic channels, the United States has deplored Soviet harassment and imprisonment of individuals who seek only to worship as they choose or to emigrate from the USSR. We maintain a list of Soviet Jews who wish to emigrate which we present periodically to high Soviet officials to emphasize our concern for all those who are forced to remain in the USSR against their will. We have taken every appropriate opportunity to make the Soviets aware of our views on this issue.

The case of Ida Nudel has long been a matter of deep concern to the United States Government. We have taken an active interest in Ida Nudel's situation since 1978, when she was denied permission to emigrate from the USSR and was sentenced to four years' exile in Siberia. During the past year, Ms. Nudel's case has been cited by the U.S. delegation to the Madrid CSCE Review Conference as a prime example of how the Soviets have failed to honor the human rights provisions of the Helsinki Accords and her case has been raised with the Soviets via diplomatic channels. Officials from the Department of State have also remained in close contact with Ms. Nudel's sister, Elena Fridman, in an effort to help Ms. Nudel gain permission to emigrate from the USSR.

I am pleased to inform you that in his recent talks with Soviet Foreign Minister Gromyko in Geneva, Secretary Haig discussed the full range of humanitarian issues, including questions involving the plight of Soviet Jewry. It is our intention to continue to raise these issues in our future conversations with Soviet officials. Let me also assure you that whenever we meet with

Soviet officials, we shall keep fully in mind the great concern of the American people and Congress for the plight of Ida Nudel and others like her who are suffering for their attempts to exercise fundamental rights and freedoms in the USSR.

Sincerely,

POWELL A. MOORE,
*Assistant Secretary for Congressional Relations.*●

● Mr. FORD of Michigan. Mr. Speaker, I rise to join my distinguished colleagues in protesting the sentence of Ida Nudel by Soviet authorities and demand the leaders to permit her to emigrate to Israel upon her anticipated release on March 20. Our Guardian Angel has devoted her life to helping ease the conditions of other Prisoners of Conscience, and has fought against the Kremlin's unrelenting persecution and oppression of Soviet Jews.

Mr. Speaker, a courageous woman may be silenced temporarily, but while she is, there will be many of us to help with the cause. While Ida's struggle for freedom has been halted for the moment, we in this Congress will continue to call attention to her plight and we will remind civilized nations around the world that she, and countless others have been continually harassed and denied the right to emigrate from the Soviet Union as guaranteed by the Helsinki accords.

Ida Nudel's sentence of 4 years in Siberia for the dubious crime of displaying a banner from her balcony that read "KGB, Give Me My Visa" should be terminated and her emigration to Israel permitted. This woman, whose only crime was to ask that a basic human right be respected, will receive my deepest commitment to help her and others who are being held against their will in the Soviet Union.●

● Mr. PEYSER. Mr. Speaker, once again, we in the free world must condemn the Soviet Union's harsh treatment of so-called dissidents. Ida Nudel, known affectionately as the Guardian Angel for her activities on behalf of Soviet Jewish Prisoners of Conscience, was charged and convicted in June 1978 of "malicious hooliganism" and sentenced to 4 years in exile. When arrested, a banner was hanging outside her Moscow flat stating "KGB, give me my visa." The Soviet police claimed this was vandalism and proceeded to incarcerate her. It was, however, merely their means of quieting her pleas for justice.

By banishing Ida Nudel in 1978 to the dreadful quarters she now occupies in Siberia, the Soviet authorities assumed they were silencing this voice of justice. They were mistaken. From her forsaken village of exile, Ida wrote:

I am fortunate that I, myself, add not only one page to the history of the Jewish resistance in Russia. I am fortunate that my efforts permitted thousands of Jews to leave this barbarous country. I am fortunate that during all these years I was helping prisoners of Zion, those who were chosen to cut the way to Israel by the price of their own freedom. But if our suffering will not force every one of you to rush to help us, then it is in vain.

Ida Nudel is expected to be released from exile on March 20. We, as Members of Congress, must actively fight for her freedom as well as for her right to immediately emigrate to Israel. We know Ida's health is poor and that she suffers from ulcers, kidney, liver, and heart conditions. May the next year find Ida Nudel in Israel, in good health, with her loved ones, where she belongs.●

● Mr. McGRATH. Mr. Speaker, I appreciate this opportunity to speak on the House floor and take part in this World Day of Protest on behalf of Ida Nudel. Once again we pose a public challenge to the Soviet Union to fulfill the commitment they made with respect to human rights in the Helsinki accords. Ida Nudel's steadfast resistence to official Soviet policies against religious freedom and emigration is an example of tremendous courage. With full knowledge of the fate which awaited her, Ida began a struggle against Soviet efforts to prevent Jewish emigration.

She has persevered through several years of official harassment, including malicious news accounts charging her with criminal activity, arrest and trial with no opportunity to make a defense, and finally a 4-year sentence to internal exile in Siberia. Ida Nudel's crime was the usual Soviet charge of malicious hooliganism, in other words, she sought the right to leave the Soviet Union and supported others in search of freedom. We have the chance today to bring out the truth about the activities of the KGB and the Soviet Government. The experiences of Ida Nudel since her original request for a visa would make people in our Nation cringe in disbelief. She has been repeatedly detained and subjected to brutal interrogations. Her home has been searched and ransacked on several occasions. I would like to know why the Soviets consider Ida Nudel such a threat to their security. I suspect it is because the Soviet regime fears the one power that their military might and police state cannot conquer, the human will for freedom.

In less than 3 weeks, Ida is scheduled to be released from internal exile. I urge every Member of this House to join our effort today to insure permission from the Soviet Government for Ida to emigrate to Israel to join her family. By doing so, you will take part in a worldwide humanitarian movement for human rights and freedom. This is the least we can do to help Ida Nudel and thousands of others who have carried on personal struggles in the face of tremendous adversity.●

● Mrs. KENNELLY. Mr. Speaker, I join my distinguished colleagues in urging the Soviet Union to grant an exit visa to Prisoner of Conscience Ida Nudel, and thereby honor its commitment to human rights as set forth in the Helsinki accords, to which the Soviet Union is a signatory.

Ida Nudel's is a story of great personal courage and heroism. Since 1978 Ida has been held a prisoner in Siberia on charges of malicious hooliganism. Her crime was that she dared to speak out for those, like herself, who wished to leave the Soviet Union to join family members outside the country.

Ida began speaking out for her fellow refuseniks in 1971, after her own application for an exit visa was denied. Harassed for 7 years by Soviet authorities, she was arrested and sentenced to internal exile in 1978 after hanging a banner outside her apartment window that read, "KGB, Give Me My Visa."

Happily, Ida is scheduled to be released later this month. Her exceptional bravery and horrible situation have attracted the attention of myself and many other Members of Congress who are all extremely encouraged by this news and celebrate with Ida's family and friends her long-awaited freedom.

But there is still one battle that remains for Ida Nudel, one every bit as crucial as that which she has been waging for the past 7 years, and one in which our continued support is just as vital. Upon release from the Siberian village where she is being held, Ida will reapply for an exit visa to Israel, where she hopes to join her sister, Elena Fridman.

For 7 years Ida Nudel, the Guardian Angel of Soviet Prisoners of Conscience, provided the support to her fellow refuseniks which enabled them to carry on their battle. For 4 years she has paid a terrific penalty for this humanitarianism. Now, at age 50, Ida's health has begun to fail, showing signs of four harsh winters spent in a Siberian wasteland.

It is time Ida Nudel was allowed to return to her own life, to the family and friends whose comfort has been denied her for so long.

I join my colleagues in calling on Soviet officials to grant an exit visa to Ida Nudel, and also in assuring them that our efforts on Ida's behalf will not diminish until she has been reunited with her family in Israel.●

● Mrs. HECKLER. Mr. Speaker, I rise today to join my colleagues here and throughout the world in both a tribute and a protest: A tribute to the courage of a single extraordinary woman and a protest against the policies of a government that has tried in vain to silence her.

It has been 11 years since Ida Nudel, whom I "adopted" in 1980, first applied for a visa that would allow her to leave the Soviet Union, so that she

might practice the Jewish faith freely and in peace. In those 11 years she has been forced to endure the most cruel harassment, abuse, and finally, imprisonment. But she has kept her faith—and today it is vital that we show our faith in her.

Imagine, if you can, the courage and strength that made this one woman challenge the monolithic tyranny of the Soviet Government.

Remember that Ida Nudel not only spoke out for her rights—demanded her freedom—but also worked alone to help those who shared her plight.

For 7 years Ida Nudel cared for the sick and lonely who had been imprisoned by the Soviet authorities because they, too, had demanded their freedom. In those years she became known as the Angel of the Prisoners of Conscience, a solitary figure representing compassion and hope.

And by displaying those virtues so openly and proudly, she became a criminal.

The arrest and trial of Ida Nudel were, as all of us know, mockeries of the most basic concepts of justice. And her exile in Siberia for these past 4 years has stood as a reminder to all the world that Soviet justice is no justice at all, but merely the workings of a system warped by anit-Semitism and the fear of freedom.

This month Ida Nudel will finish her term of exile in Krivosheino, Siberia. She will have withstood the personal agonies and the public humiliation that have been heaped on her by the Soviet authorities. She will have demonstrated, for all the world, that even the most despotic of governments cannot crush the human spirit and its dedication to freedom.

For all of us who have worked and prayed for Ida Nudel during her ordeal, her release from exile will be a triumph, but only a partial one.

It will show that Ida Nudel has had the will to endure her torments. But to those of us who have followed her case for years, that will come as no surprise.

The triumph of Ida Nudel will be complete only when she has finally obtained the exit visa that has been her goal for these 11 years—and when she is reunited in Israel with her sister, Elena Fridman, who has worked so tirelessly on her behalf for so long.

We do not yet know whether the Soviet Government will, at long last, accede to the demands of an outraged world that this woman—and the thousands she represents—be granted the freedom that is by right hers.

But we are here today to put that Government on notice that if it cares at all about its place in the world community—if it aspires in the least to the acceptance of civilized nations, if it wishes to be viewed as anything more than the world's prisonhouse—then justice and freedom must be granted to Ida Nudel.

The Soviet Government cannot forever ignore the conscience of its own national. Nor can it expect to resist the tide of freedom that is the true driving force of history.

Today, we are uncertain about what the future holds for Ida Nudel. But we know what she has done—what she represents to those who share her quest for freedom—and what has sustained her through these years.

We know, and share, the faith and hope of Ida Nudel. It is up to us to do all we can to redeem that towering faith.●

● Ms. FERRARO. Mr. Speaker, today, as part of a World Day of Protest, we honor an heroic woman, Ida Nudel, whose life of sacrifice should dispell the pessimism of those who mistakenly believe that ours is a world without heroes.

I applaud the efforts of the Union of Councils for Soviet Jews, Representative NORMAN F. LENT, and other organizations and individuals active in coordinating this special occasion. It is a day to recognize a Soviet Jewish Prisoner of Conscience whose life of sacrifice also reminds us that the human will to religious freedom is so vibrant that no government, no matter how pervasive and ruthless its secret police, can ever sap its vigor.

In addition to participating in this World Day of Protest, I registered my concern for Ida Nudel's human rights last week in letters to Soviet President Leonid Brezhnev and Secretary of State Alexander Haig.

I hope my colleagues will take a few moments to express their thoughts as well about Ida Nudel to officials in both the American and Soviet Governments.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 24, 1982.*

President LEONID BREZHNEV,
*The Kremlin,*
*Moscow, U.S.S.R.*

DEAR MR. PRESIDENT: In June 1978, Ida Nudel, a Soviet Jewish economist, was convicted of "malicious hooliganism" by your government and sentenced to a Siberian prison for four years. As her term nears its end, human rights advocates throughout the world are anxiously waiting to see if Ida Nudel will be allowed to emigrate to Israel and join her sister, the very issue that prompted here arrest in the first place.

In November 1978, just five months after Ida Nudel was arrested, voters in Queens, New York, elected me to the United States Congress and a short time later, I adopted her as my "Soviet Jewish Prisoner of Conscience." Since then, I have written to you and other Soviet officials, repeatedly asking you to arrange a time to meet with me and discuss this important case. Thus far, unfortunately, members of the Soviet government have evaded my inquiries. But they cannot escape the fact that Ida Nudel has become a symbol to the world, challenging the mistaken idea that a prison wall can forever crush the overpowering will to freedom.

In the name of human decency, it is time for the Soviet government to abide by its pledge contained in the Universal Declaration of Human Rights which emphatically declares, "Everyone has the right to leave any country, including his own, and return to his country." Ida Nudel seeks only to exercise two sacred rights guaranteed by international law—the freedom to travel and the freedom of religious expression.

Only Soviet officials, of course, can make Soviet policy, but your regime should know that this Congress, and the Americans they represent, would no more retreat from their shared commitment to Ida Nudel and the other "Soviet Jewish Prisoners of Conscience" than we would repeal our own Bill of Rights.

Once more, I implore you to erect no new barriers when Ida Nudel seeks to leave the Soviet Union for Israel. Only in this way can your government silence the thunderous outrage that has greeted your handling of her case until now. I will eagerly await a response from you to my request for the humane treatment of Ida Nudel.

Sincerely,

GERALDINE A. FERRARO,
*Member of Congress.*

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 24, 1982.*

Hon. ALEXANDER HAIG,
*Secretary of State,*
*Department of State, Washington, D.C.*

DEAR SECRETARY HAIG: As you speak for the United States in meetings with Soviet officials, it is imperative that you communicate the deep American concern about the treatment of Ida Nudel, a Jewish economist convicted of "malicious hooliganism" by the Soviet regime four years ago. With her term scheduled to end in March, human rights advocates around the world are anxiously waiting to see if Ida Nudel will be permitted to emigrate to Israel after leaving the Siberian prison where she has been held in dehumanizing conditions since 1978.

Ida Nudel did not kill, rob or slander anyone. This woman, known as the "Angel of Mercy" for her kindnesses to other prisoners, simply hung a banner from her Moscow flat reading, "KGB, give me my visa." For that expression of her will to freedom, Ida Nudel was arrested. The Reagan Administration, as it seeks to promote the cherished cause of human rights around the globe, should carefully note these words written by Ida Nudel while in exile, words that insist that pressure from the United States can positively affect the cause of human rights in the Soviet Union: "Through our suffering, we have been able to push the gates of the U.S.S.R. just slightly ajar. Through the tiny opening we have made in the Iron Curtain, Jews manage to get out of the Soviet Union. This in fact is our one solace through our ordeal. But the opening is small and vulnerable, and we implore all of you in the free world to keep a close watch on the opening and not to allow the gates to be slammed shut again."

As a member of Congress who has adopted Ida Nudel as her "Prisoner of Conscience," I implore you, Mr. Secretary, as the primary spokesman for American foreign policy, to warn Soviet officials that our country will

not watch silently while the gates of freedom are slammed shut again.

Sincerely,

GERALDINE A. FERRARO,
*Member of Congress.*●

● Mr. DOWNEY. Mr. Speaker, 4 years ago Soviet authorities exiled Jewish refusenik Ida Nudel to the cold wasteland of Siberia. But no frozen prison can chill a heart that burns for freedom. Thus, Ida Nudel, who has fought since 1970 for her freedom, still fights for that same right today: for the visa to Israel that will mean freedom.

Ida Nudel's battle for freedom has carried her far beyond herself. Years of caring and providing for other Jewish prisoners also persecuted for their beliefs testifies to her selflessness. Her actions while in exile fill her heart, as it fills our hearts now, with extraordinary feelings.

Ida Nudel, the Guardian Angel of the Prisoners of Conscience, is an extraordinary woman. She turns now to us for help, as so many have turned to her. It is within our power to help one who has helped others so much; and just as she so readily extended her hand, we must extend ours. We must demand that Ida Nudel be granted the right to emigrate to Israel. I ask my colleagues to join me in this most noble of causes by protesting the Soviet Union's denial of her visa.●

● Mr. PATTERSON. Mr. Speaker, I rise today to urge the Soviet authorities to release Ida Nudel and grant her request for an emigration visa.

Ida Nudel made her initial application for a visa in May 1971. The request was denied because of state secrets. Shortly thereafter, she began her efforts to care for and support Jewish prisoners who had been jailed for their beliefs. Because of her tireless efforts on their behalf, she has since become known as the Guardian Angel of the Prisoners of Conscience. Unfortunately, this notoriety has not been well received by the KGB, the Soviet Secret Police.

On June 1, 1978, Ida Nudel was arrested by the KGB on a charge of malicious hooliganism. For a period of 7 years before her arrest, she had been subjected to various forms of official harassment, interrogations, and a malicious press campaign. After a trial during which she was permitted no representation and where no defense witnesses were called, she was sentenced to 4 years of internal exile in Siberia.

Ida Nudel is the only Jewish woman now held in the Soviet Union as a Prisoner of Conscience. She has never stopped believing in her cause and stands as an example of bravery in the face of the authoritarian Soviet regime.

Let me conclude by quoting from the statement Ida Nudel made at the close of her trial:

If the remaining years of my life will be gray and monotonous, these seven years will warm my heart with the knowledge that my life has not been without purpose. None of you, my judges, is capable of finding a punishment that would take revenge and deprive me of the triumph and victory of these seven years.●

● Mr. BARNES. Mr. Speaker, during my freshman term in Congress, in November 1979, the Congress passed a resolution urging the Soviet Union to "release Ida Nudel from exile and allow her to emigrate to Israel so that she can be reunited with her sister and husband." In January 1980, the National Conference on Soviet Jewry, along with Members of Congress and the Congressional Wives for Soviet Jewry, worked to gather petitions, which were presented to Soviet officials on behalf of Ida Nudel and her many supporters in the United States, who today continue to demand her release. On April 27, 1981, serveral of us in the House hosted a reception in honor of Ida's 50th birthday. Today, still in exile in Siberia, Ida fights on for freedom.

Over 10 years ago, Ida Nudel first applied to emigrate from the Soviet Union and was refused. Seven years later in 1978, she courageously stood up to the Soviet authorities and in front of the world proclaimed "KGB, give me a visa to Israel." Her subsequent sentence to internal exile in Siberia is an attempt by the Soviet authorities to darken and empty her life, to kill her spirit, and to force her to abandon her religion and faith in justice. But her Soviet oppressors know little of the determination and perseverance of this woman. Despite illness and psychological and emotional pressures, she has not given up. We are telling Ida today that we are all with her and that we continue to protest the intransigence of the Soviet authorities. Ida knows too that she is a person who symbolizes the struggle of all Soviet refuseniks and so as we protest for her today, we also protest for those unknown to us who have made the sacrifices, who have faced the harassment, and who have had to endure the unjust punishments in their quest for freedom. Ida has broadened her quest by helping many Jewish refuseniks and prisoners, giving them a renewed hope, and supporting them in their Jewish faith and cultural heritage.

Today, of the many who have actively worked for the emigration of Soviet Jews and who are now serving sentences for their work, Ida is among the oldest and is the only woman. At her trials in 1978 she told us:

I have learned to walk proudly with my head high as a human being and as a Jewish woman . . .

And—

Every time I was about to help another friend, my heart filled with an extraordinary feeling unlike any other. Perhaps the closest such feeling is that which a woman feels when giving a new life.

This woman, well known and loved as the "Guardian Angel" who has helped so many, continues to bear, with hope and strong faith, the burden of her oppressor's justice.

We in the U.S. Congress, in the United States, and around the world are saying today that the Soviet Government must relent and let Ida Nudel go. The more uncompromising the Soviet Government's position becomes, the more forcefully we speak out and the greater, in number, we become. We are standing at the portal and will stand watch until Ida Nudel can cross the Soviet borders into freedom.

The Soviet authorities must understand our message clearly. We know what is happening to Ida Nudel. We know that she is due to be released next month from her arbitrary sentence of internal exile. We believe that she must at least be permitted to return home to live in Moscow—that is the very least we should expect from the Soviet authorities. The Soviet Government cannot forever try to blind itself from world opinion or from the unyielding protests of a world of people who despise injustice and inhumanity.

Mr. Speaker, I thank my colleague, Congressman LENT, for calling this special order today to recognize this World Day of Protest for Ida Nudel. Triumph and victory belong to her and this dream will live in her and us until—finally—she joins us in the free world.●

● Mr. LOWRY of Washington. Mr. Speaker, I am honored by the chance to participate in this World Day of Protest on behalf of Ida Nudel, the Guardian Angel of the Prisoners of Conscience, whose only crime has been to seek the rights that should be every person's by birth.

Everywhere in the world, all who believe in religious and personal liberty admire her courage and determination in the face of 7 years of harassment by KGB officials, a malicious press campaign, a trial which was a mockery of justice, and internal exile in Siberia. We honor Ida Nudel because she has, through her compassion and heroism, become able to walk proudly in a society which views individuality as a crime.

All across the Soviet Union, brave men and women are striving for the freedom that we in America are so fortunate to experience each day of our lives. Through countless quiet acts of humanity, they are creating a brilliant new chapter in the struggle for liberty. We must and shall continue to support them in every way possible.

Ida Nudel's achievement will continue to inspire us to support human

rights. We shall remember her final words at her trial, on June 21, 1978:

None of you, my judges, is capable of finding a punishment that would take revenge and deprive me of the triumph and victory of these seven years.●

● Mr. FITHIAN. Mr. Speaker, I join my colleagues today in a World Day of Protest on behalf of Ida Nudel, a courageous woman who is completing a long and harsh period of internal exile in the Soviet Union. Ida Nudel has been active in the support of Jewish refuseniks, and has herself been refused permission to emigrate to Israel since her first request for a visa in 1971. After being arrested for hanging a protest banner from her apartment window in 1978, she began the arduous Siberian exile which is now approaching an end.

As a proud, sensitive woman who dedicated herself to the care and support of other prisoners of conscience prior to her own arrest, Ida Nudel garnered the respect and admiration of people the world over. Known as the Guardian Angel, she is a strong and inspiring example to others who work for the freedom to worship in or the right to emigrate from the Soviet Union.

Like many others, I am disturbed by the increasingly stringent Soviet response to individuals who seek exit visas. And I am concerned for those Soviet citizens who endure harassment and persecution by their neighbors and their government because they choose to practice their religious faith or seek to emigrate from the Soviet Union. I join my colleagues today in calling upon the Soviet Union to honor its commitment to these principles as embodied in the Helsinki accords, and to recognize Ida Nudel's right to emigrate to Israel following her anticipated release from exile in March of this year.●

● Mr. ROSENTHAL. Mr. Speaker, I join my colleagues today in demanding that the Soviet Union grant emigration rights to Ida Nudel, who is scheduled for release on March 20, 1982 from her forced internal exile in Siberia.

For 3½ years she has struggled against the bitter Siberian conditions, her health progressively deteriorating. She is now the oldest prisoner of conscience and the only woman forced to endure these horrifying circumstances.

Ida Nudel deserves to be reunited with her family in Israel. Her only crime was the desire for freedom to practice her beliefs. It is a right she is guaranteed under the principles embodied in the Helsinki accords of 1975, signed and endorsed by the Soviet Union.

Today, I participate in protesting the unduly extended imprisonment of Ida Nudel, as well as the cruelty and persecution of individuals, who, like her, have been abused by a callous regime refusing to allow the Jews in its country to live in peace.

Ida's struggle has been our struggle as well. Her courage and strength should be rewarded by granting the exit visa she has waited to receive for one-fifth of her life. I have pledged to see Ida reunited with her sister and husband in Israel. I urge the Soviet Union to listen to this world protest, to abide by their agreements and to free Ida Nudel. She has fulfilled her sentence and it is imperative that she be allowed the right to travel to a country which will not subject her to the harassment she has endured for the past 11 years in the U.S.S.R.●

● Mrs. HOLT. Mr. Speaker, for almost 4 years, Ida Nudel has been enduring a sentence of internal exile in a remote Siberian village of the Soviet Union. She was sent into exile after years of protesting the treatment of Jews and the Soviet denial of their right to emigrate.

A courageous woman who dared to raise her voice against the police state, she is scheduled to complete her term soon. She wants to emigrate to Israel to be with her sister Elena, her only living relative.

We Americans cannot really comprehend what it must be like to live in a country which is a vast prison. I suspect you must actually live in it to know it.

It would seem to be a simple matter to allow a woman to go to live with her sister, but it is not a simple matter for anybody to leave the Soviet Union, or even to move from one city to another in that State.

But perhaps President Brezhnev can be persuaded to exercise compassion in this case. Perhaps he will give Ida Nudel her freedom.

I am pleased to join my colleagues in the U.S. House of Representatives to ask for her freedom.●

● Mr. DERWINSKI. Mr. Speaker, I wish to join with my colleagues in expressing my strong feelings on behalf of Ida Nudel, the "Guardian Angel" of Soviet Prisoners of Conscience. On this World Day of Protest, it is appropriate that we join in demanding that the Soviet leaders permit Ida Nudel who remains a symbol of hope for the 3½ million Jews in the Soviet Union who wish to emigrate to Israel to rejoin their loved ones.

This strong-willed, soft-spoken woman has devoted her life to helping ease the conditions of other Prisoners of Conscience, and has fought against the Kremlin's unrelenting persecution and oppression of Soviet Jews. Her desperation to leave for Israel in the face of continued Soviet refusal to grant her exit permission led her to hang a banner outside of her Moscow apartment in June 1978 with a simple plea, "KGB, Give Me My Visa." Soviet authorities responded by giving her 4 years of exile in Siberia, for her humanitarian request which they labeled as "malicious hooliganism."

Ida Nudel, the only Jewish woman now held in the Soviet Union as a "Prisoner of Conscience," is one of the most courageous fighters for freedom from the heartless Soviet regime. She has gained worldwide recognition and admiration as she continues to speak out against the injustices and inhumanities that the U.S.S.R. is perpetrating against its own people. The case of Ida Nudel, whose only request is to live where she wishes, is just one example of the harsh actions by the Kremlin.

Although Ida has never stopped fighting for the freedom to practice her religion in the country of her choice, the Soviet authorities continue to persecute this brave woman. As we salute Ida Nudel today, we let the Soviet Union know that their persecution of this woman must not be allowed to continue and that her anticipated release from exile on March 20 should be permitted. We must unite in protesting this brutal treatment of a most heroic woman, whose only crime is her desire for freedom. If we allow this type of inhumane persecution to continue without protest, it will simply encourage the Soviets to increase their persecution of the thousands of Soviet Jews who seek to leave the Soviet Union.

I join my colleagues in supporting this World Day of Protest on behalf of Ida Nudel and express our hopes for her freedom on March 20, and for the freedom of her fellow citizens.●

● Mr. MOFFETT. Mr. Speaker, I am pleased that Congress is taking this opportunity to focus attention on the plight of Ida Nudel, the "Guardian Angel" of Jewish refuseniks in the Soviet Union.

Currently serving the final days of a 4-year sentence of internal exile in Siberia, Ida Nudel embodies the courage and dedication of Soviet refuseniks, who are the victims of an increasingly brutal campaign of harassment and persecution by Soviet officials. She is but 1 of over 10,000 Jews currently seeking to leave the Soviet Union, yet her 10-year-old struggle to join her sister in Israel inspires respect and admiration both among her fellow refuseniks and those of us who are committed to human rights.

Mr. Speaker, these are indeed hard times for Soviet Jews. The emigration statistics just released for the month of February are the lowest in 10 years—only 283 Jews were permitted to leave the Soviet Union. And there is no indication that this disturbing trend will be reversed in the foreseeable future.

Perhaps the most important characteristic of a civilized nation is its respect for the basic rights of its citi-

zens—including the right to religious expression and the right to emigrate to join one's family. These principles are firmly established by the Helsinki accords, which the Soviet Union has signed. It is important that we in Congress draw attention to the blatant hypocrisy of the Soviet Union, evidences by its denial of even the most basic rights to Soviet Jews. I am pleased that Congress passed House Joint Resolution 373 earlier today, and I am confident that action, along with this special order honoring Ida Nudel, will send a clear message to the Soviet Union that we are not ambivalent toward their barbarous persecution of Soviet Jewry.●

● Mr. LEHMAN. Mr. Speaker, no one illustrates the hope and cause of Soviet Jewry more than Ida Nudel. Known as the Guardian Angel of the Prisoners of Conscience, Ida Nudel has risked her own life as an activist and leader of the Moscow Helsinki Monitoring Group before being sent into a 4-year Siberian exile in 1978.

Nearly a year has passed since the House of Representatives paid special tribute to Ida Nudel, and in April Ida will spend yet another birthday, her 51st, in the isolation and captivity of internal exile.

Ida's life was devoted to helping fellow refuseniks whose daily lives became nightmares once they applied for permission to emigrate from the Soviet Union to Israel. She personified the guardian of moral and inner strength, courage, and determination characteristic of the Soviet Jewry movement. Even though she is no longer able to deliver the messages that provided so much encouragement to refuseniks cut off from the comforts of society, her sensitivity to the psychological needs of people who, due to their wish to live in Israel, are forced to suffer mental and physical harassment, continues to be felt. Her selfless activism became and remains a symbol of strength. While she is shut away and denied the caring in her own time of need which she extended to others, we must do what we can for Ida Nudel.

I have recently joined with many of my colleagues in sending a letter to Soviet Ambassador Anatoly Dobrynin urging that permission be given to allow Ida to be reunited with her family in Israel.

We in Congress must continue our call for Ida's release. And we must intensify our efforts to reopen the gates to Jewish emigration from the Soviet Union. As the 1981 Jewish emigration figure of 9,447 reveals, last year had the lowest rate of departure from the U.S.S.R. since 1971.

I call on my colleagues to work toward reopening the emigration for Soviet Jews and others who wish to be reunited with family in other parts of the world, and to protest the resurgence of anti-Semitic practices by the Government of the Soviet Union.●

● Mr. GREEN. Mr. Speaker, I am pleased to have this opportunity to speak out on behalf of Ida Nudel, the "Guardian Angel" of Soviet Jewish activists. Ms. Nudel is one of my "adopted" Soviet Prisoners of Conscience, and I have followed her case closely over the years. As she is due to be released from internal exile very soon, it is imperative that we let the Soviets know we have not abandoned this heroine.

Ms. Nudel was arrested on June 2, 1978, for "malicious hooliganism," the traditional charge made against Soviet Jewish activists who seek only to practice their religion or emigrate to Israel. She was arrested because she had hung a banner saying, "KGB, Give Me My Visa" outside her apartment window the previous day. But as she said after she was sentenced later that month, her real crime was that, "During these (past) 7 years I have learned to walk proudly with my head high as a human being and as a Jewish woman."

Ida Nudel first applied to emigrate in May 1971, but emigration was consistently denied for reasons of state security. This was a patent fabrication, as Nudel has no knowledge of state secrets. During the time between her application to emigrate and her arrest, Nudel lived alone in Moscow. Her apartment was raided frequently, and her personal effects often confiscated. Despite continual KGB harassment, Nudel continued her campaign to get permission to emigrate.

She also continued her efforts on behalf of Soviet Prisoners of Conscience, for which she came to be known as the "Guardian Angel." She wrote regularly to them and sent them packages necessary for their survival. Her expressions of solidarity with these Prisoners of Conscience are a model to all of us working for the freedom of citizens imprisoned because they stood up for human dignity.

In November 1973, Nudel entered a medical clinic for a heart condition. Soviet authorities attempted during her stay there to classify her as an alcoholic. This would have meant her being committed to a psychiatric hospital, and exposed to the insidious Soviet practice of repressing dissidents by using psychiatric "treatment." Thanks to public opposition to this prospect, she escaped this fate. Since then she has suffered from a number of serious illnesses, but has resisted treatment for fear of what could happen to her in a hospital.

Ida Nudel is serving her sentence in Krivosheino, a Siberian village of 6,000, most of them exiled criminals or their descendants. Her first home there was a hostel inhabited by 60 violent men who frequently threatened her with physical harm. In 1979, she was able to move to a one-room hut. She must walk long distances to carry provisions, a difficult task due to her recurring heart and kidney problems.

I recently heard from Elena Fridman, Ida Nudel's sister who emigrated to Israel from the Soviet Union in 1972, and whom Ida Nudel will join if she is permitted to emigrate. Ms. Fridman is very concerned about what will happen to her sister if she is not permitted to emigrate immediately upon her release from internal exile. She wrote:

> We cannot allow the Soviet authorities to believe that Ida has been forgotten after 3½ years of exile. They must be reminded that they will be held accountable for whatever further harm might befall her during this upcoming hazy period. Every effort must now be made to extract from her persecutors an answer as to what they have in mind now that they know they couldn't break her by isolating her in Siberian exile. She has suffered enough. I cannot even begin to imagine what sinister fate awaits her if and when she is allowed to leave Siberia as a Soviet ex-convict if she is not allowed to leave the Soviet Union directly from Siberia.

Seventy-four of my colleagues and I sent a letter on Friday to Soviet Ambassador Anatoly Dobrynin asking that Ida Nudel be allowed to join her sister as soon as she is released. I hope our effort will prompt action by the Soviets, and certainly intend to follow up on this effort with similar appeals to the Soviets. I also have written to the State Department about Ms. Nudel, and understand that Secretary of State Haig in fact mentioned the urgency of Ms. Nudel's case at his recent meetings with Soviet Foreign Minister Gromyko. I am pleased the State Department has taken this activist role on her behalf. Only continued pressure on the Soviets will bring about the freedom of Soviet Prisoners of Conscience.

Ida Nudel's only crime was to live proudly as a Jew. We must stand by her until she is freed and permitted to join her sister in Israel. Today's special order should serve to warn the Soviets that the United States will not countenance the oppression of good citizens like Ida Nudel. If we are successful, perhaps very soon Ida's dream, "that some day I will walk up the steps of an El-Al aircraft, and my suffering and my tears will remain in my memory only," will come true. Thank you, Mr. Speaker.●

● Mr. CARNEY. Mr. Speaker, today commemorates a World Day of Protest for a very brave woman. Ida Nudel has been aptly called the "Guardian Angel of the Prisoners of Conscience" in the Soviet Union. From 1971 until her imprisonment on trumped-up charges in 1978, Ida Nudel took an active role in supporting and caring for Jewish Prisoners of Conscience in the Soviet Union. Naturally her efforts, like all humanitarian and freedom-promoting

efforts, earned her the wrath of the Soviet regime.

Ida Nudel, prior to her imprisonment, had been subjected to a nonstop campaign of harassment for 7 years. A false press campaign sanctioned by the authorities was undertaken to impugn her character and brand her a criminal. Her applications for an emigration visa were repeatedly denied. Finally, in 1978, Ida Nudel was charged with "malicious hooliganism," the state's code word for a dissenter. In a sham of a trial, she was convicted. The real basis of her conviction was the hanging of a banner from her window requesting the authorities to give her her visa. It is unimaginable that anyone in this day and age could be sentenced for an action which we in this country view as a natural right. Throughout her entire ordeal of arrest, trial, harassment, and exile in Siberia for the past 4 years, Ida Nudel never lost her courage.

At her trial, Ida Nudel exposed the Soviet system for the political weapon that it is—a weapon used against innocent people. "I am standing trial for the entire past 7 years of my life," declared Ms. Nudel. Referring to her work with dissidents she said:

> If the remaining years of my life will be gray and monotonous, these past 7 years will warm my heart with the knowledge that my life has not been without purpose. None of you, my judges, is capable of finding a punishment that would deprive me of the triumph and victory of the past 7 years.

Mr. Speaker, I hope that the messages of the Members of this Chamber will have an impact on Ms. Nudel's situation. She has been deprived of liberty needlessly for the past 4 years. We may only demand that she be released immediately. And when she is released, I hope that she will be able to emigrate to Israel. Justice and humanity demand better treatment of this brave individual. I join the call for freedom for Ida Nudel and pledge my continued support for her until she is released.●

● Mrs. SCHROEDER. Mr. Speaker, Ms. Ida Nudel applied for an exit visa from the U.S.S.R. to Israel in 1971. Since that time, she has been repeatedly harassed and interrogated. On March 20, 1982, she will complete her 4-year exile in Siberia.

Ms. Nudel is in poor health and is in constant pain. She is the only Jewish woman now held as a Prisoner of Conscience in the Soviet Union, Her courage, determination, and spirit are unsurpassed.

She walks proudly with her head high as a human being and as a Jewish woman. I join with the rest of my colleagues here on this World Day of Protest on behalf of Ida Nudel, to ask Soviet President Brezhnev and Soviet Ambassador Dobrynin to grant an exit visa for Ida Nudel allowing her to spend her remaining days with loved ones in Israel.●

● Mr. DWYER. Mr. Speaker, it is an honor for me to join today in this World Day of Protest on behalf of Ida Nudel, and I want to thank my colleague, Mr. LENT, for calling this special order.

Each one of us committed to the cause of liberty and justice must feel a special kinship with this brave freedom fighter, but more than this, a deep, abiding respect for her compassion and courage.

She has suffered greatly, but has emerged even stronger in her efforts to care for and support her comrades who have been jailed for their beliefs.

Dauntless and proud, Ida Nudel deserves our support. We owe it to this great woman to answer her call, "If our suffering will not force every one of you to rush to help us, then it is in vain."

In that spirit, I appeal to President Brezhnev and Ambassador Dobrynin, to whom these words will be sent, to permit Ida Nudel to emigrate to Israel.●

● Mr. KEMP. Mr. Speaker, it is heartening to know that Ida Nudel is about to be released from her 4-year exile to Siberia, a sentence ostensibly imposed for the crime of "malicious hooliganism;" in reality it was for the "crime" of being Jewish in the Soviet Union.

Ida will celebrate her 51st birthday in April. It would be fitting if the Soviet authorities could be prevailed upon to allow her to celebrate it in Israel, with her sister and her husband, whose indefatigable support and encouragement have helped sustain her through the harsh Siberian winters of her exile.

The United States has not been silent on this matter. Thanks to NORM LENT a bipartisan coalition of our fellow Members of Congress have expressed our deep concern over the treatment of Ida Nudel and other dissidents. I have joined others in speaking out frequently against the harassment of Ida, Anatoly Shcharansky, Vladimir Prestin, Andrei Sakharov, and Elena Bonner, to name a few. We've been personally assured by Elena Friedman, Ida's sister, that word does filter back to the dissidents that they have not been forgotten by the world outside their jail cells, and that this knowledge causes them to take heart and continue to hope for their freedom, and the freedom of all other Soviet citizens who desire only to be permitted to retain and practice their beliefs, or alternatively, to be permitted to emigrate to a country which will respect their views.

Our activities must not cease with Ida's release. We must continue to press the Soviet Government to allow her to emigrate to Israel, a request initiated in 1971 when she first applied for an exit visa. This application marked the beginning of her harassment by Soviet authorities, as it does in almost every case. We must continue to voice our protests to the Soviet Union against its policy of routinely denying exit visas for Jews, and using the visa application as a starting point for escalating harassment of the individual and the community.●

● Mr. FAUNTROY. Mr. Speaker, it is with a sense of concern and enthusiasm that I join with my distinguished colleague, Mr. LENT, in the World Day of Protest on behalf of Ms. Ida Nudel, a Prisoner of Conscience in the Soviet Union, serving a 4-year sentence in exile in Siberia.

Along with many of my colleagues, I have been aware of Ms. Ida Nudel's imprisonment for the "crime" of seeking the human right to emigrate from the Soviet Union. Like many of my colleagues I have often raised my voice in support of Ms. Ida Nudel's quest for freedom.

Once again, I join my colleagues in demanding that the authorities of the Soviet Union permit Ida Nudel to emigrate to Israel upon her anticipated release from exile on March 20, 1982.●

Mr. LENT. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

## THE FEDERAL RESERVE

The SPEAKER pro tempore (Mr. BONER of Tennessee). Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include therein extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, I have spoken with respect to the Federal Reserve Board, the fact that the Congress for more than two decades has overlooked or abdicated a very serious and continuing responsibility, ever since the enactment of the 1913 Federal Reserve Board Act. Also because of the long-standing need for the congressional oversight, and certainly review of the provisions of that act, inasmuch as this Board or agency by its persistent and willful ignoring of accountability either to the Congress or the Executive branch of the Government, therefore, is completely and has been completely out of control of the American people.

Being the main arbiter as to the destinies both as to the fiscal as well as monetary destinies of our country, I think that now at this stage, a crisis stage, it is obvious to even the most-distant citizen that this is a matter of urgent need for attention and some immediate action. But none is even visible on the horizon as forthcoming.

I also have addressed the House since my introduction of two resolutions and three separate bills in pursuance of this objective. There were two resolutions, one having to do with the impeachment of the current chairman of the Federal Reserve Board, Paul Volcker, and in pursuance of that I made the request of the chairman of the Judiciary Committee that he give serious attention. Unfortunately, a matter of this nature sometimes tends to sound bombastic and flamboyant and, therefore, is subject to some ridicule and some rather light-hearted and giddy-headed attention. This, of course, has been the suffering of this resolution I introduced.

However, never in my career, whether as a member of the city council of the city of San Antonio, Tex., or the 5 years that I served as a State senator in the State senate of Texas, or the 20 years and 3 months that I have had the honor of serving in this body, have I ever considered any part of my duties as a matter of levity or as a joke, or as a stratagem for a joke. If I have reached the point of introducing a resolution it is because I am in dead earnest, and I mean every word of it, and because I intend, and want, and seek, and will insist on serious consideration.

So I ask unanimous consent that at this point in the RECORD I may be permitted to place into the RECORD my November 12, 1981, letter addressed to Hon. PETER W. RODINO, JR., and his reply to the same of December 11, 1981, to me. In this letter from Chairman RODINO I am advised that he received the resolution and that he has asked the staff of that committee to conduct a preliminary review of the resolution and any available evidence which would support such a resolution. However, he did stipulate, and I quote:

> Due to the extremely heavy legislative workload in these closing weeks of this session, I do not anticipate any action in the near future.

Since I have had no further word in light of the fact that he stated that he was going to instruct the staff to look into the general tenor of the possibility of the resolution, and also whatever constitutional basis there would be, I presume, for entertaining the resolution, and I assume that since I have had no further word, that either this has not been done yet or it has not been completed and, therefore, I anticipate some further correspondence from the chairman.

But in the meanwhile, it looks to me as if it will be up to myself to make the case and, therefore, I intend in the future, through this forum—it is the only forum available—to formulate, outline as if I were appearing before the Committee on the Judiciary, as if I were making the case and as if we had a full blown proceeding for the purpose of the Judiciary Committee hearing the nature of the resolution of impeachment against the chairman of the Federal Reserve Board. I will proceed on that basis and will deduce what I consider to be the satisfactory evidentiary matters laying the predicate on a constitutional basis for such a move.

However, it never has been my intention that this resolution would be the main instrumentality of action, for that would be, of course, I think rather foolish, foolhardy, because the real need is not the immediate impeachment of a chairman, even though I think that there are grounds, but it certainly would do one thing, and that is to at least bring to the attention of the Congress, even though it is in the forum of the Judiciary Committee that has no direct jurisdiction of what the Congress itself ought to be doing, first on the basis of another committee, the Banking Committee, and then the full Congress itself, and that is the bringing to accountability of those who are forging the destiny and, in fact, wrecking those destinies of fiscal and monetary well-being of this great country.

We are being held hostage, both President and Congress, and the people, and the small businessmen to this runaway Board that in its arrogant posturing before the Congress—I have been a member of the Banking Committee for the 20 years that I have served in the Congress, and at no time have we ever had a chairman or any member of that Board come before a committee and even show a willingness to render an accounting as to whether it is the methods, the judgments, the policies, and the procedures made in camera in the so-called open market committee, which is really a secret committee, which, in effect, determined policies that can make or break any administration in power, for it will determine exactly what it is the Treasury bill or note is going to call for. Ever since the changes in 1951, we are the only country in the world that handles our finances, even between the Department of the Treasury and the central banker, which is the Federal Reserve Board, the way we do. Not only are we being wrung dry through extortionate, not high, not usurious, but extortionate, criminal rates of interest. The idea that a country with an economy of the kind and a civilization of the kind and a Government of the kind of the United States would be fragilated with extortionate rates of as much as 21 percent prime interest rate is absolutely unthinkable, unacceptable, and, indeed, and, in fact, I charge it is criminal. What has been done has been the legalization of usury. We have made what has been illegal even since the days of Jesus Christ our Lord, even then it was illegal, we have legalized it.

Why? Because Congressmen, Presidents, Secretaries of the Treasury and the great mass of the so-called private sector leaders seem to say that these things are acts of God, that nothing can be done about it. High interest rates, you cannot do anything about it. There are all kinds of myths then as to why, and yet we let the Secretary of the Treasury, we let the Presidents, we let high ranking Members of the Congress, indeed the entire Congress over the last 20 or 30 years get away with this notion that it is not our responsibility.

When the people ask me why can you not do something about the fact that if I want to go and borrow money—this is a small businessman talking—in order to have a floor inventory from my store, I must pay 22 percent, 20 percent, 19 percent, 18 percent. I will say this for myself, even the idea of having to pay 10 percent is wrong and criminal and unnecessary, and weighing down like a giant dead hand smothering the engines of enterprise and production and industrial well-being in this country.

This morning coming to Washington from Texas one of the headlines in one of the Texas papers, in Dallas to be exact, was the fact that the great Braniff Airline was suspending half of the weekly payment of their employees. The main reason was their cash flow is in trouble. Why? Because how in the world can even that kind of a powerful business enterprise afford to borrow on a short-term basis at more than 17 percent or even more than 15 percent? It is incredible. It is unbelievable that this economy of the United States would be like an economy of a Third World country.

This is where I have always seen these interest rates this way, but those are countries that have what kind of economies? They are the most primitive where such things as mass production, mass consumption, based upon that third leg of that great financial stool, and that is consumer finance, so that if you live in any country south of us, beginning with Mexico, and for years if you wanted to borrow money, if you could to begin with, you could never get it unless you were willing to pay over 15, 16 percent. But then, the great variety and diversity of product in our country was made possible because, yes, essentially mass production, mass consumption. But that in turn, especially after World War II where Americans were now inured to abundance was made possible also not just because of mass production and such mass consumption as was then available, but because that was raised exponentially through consumer finance at reasonable amounts of payment that an average wage earner could buy.

□ 1615

Today why are our automobile sales down with respect to new cars? Well, it is simple. Anybody who lives in the United States does not have to be an economist to know that if you want to get any kind of a car today, it is difficult to do it for much less than $10,000, and if you borrow and try to pay on the installment, you are going to have to pay no less than 16 percent interest rate.

What does that mean? It means we are depriving the average American of the prime product of America. We in America like to talk about these lesser countries having one-crop economies. Well, what is it we have? Why are we in such distress now? Because of our one-crop economy, the automobile industry, principally, which is so interrelated with so many others, that you have now over 265,000 automobile workers alone unemployed. And the American automobile makers are saying they cannot sell their cars. Then some go off on tangents and some blame the Japanese and some blame the others, but always forgetting that at the bottom of it has been the fact that we are trying to regress. We have a President, we have an administration, and we have their supporters in the Congress that up to now have been rigid in their partisan support, who say that they can turn the clock back and that they can live and make peace with the usurers, with the extortionists, with those who are stifling every bit of activity, whether it is home buying, car buying, installment buying of any kind in this country.

This is the kind of thing that I believe that the Congress needs immediately as a matter of urgent necessity to address itself to. Of course interest rates can be controlled. Of course they are not acts of God. Of course it can be done, all within the constitutional framework of our civilization and Government. Of course it can. But it will not be done by those who are beholden to those who are profiting from these enterprises and extortionate rates of interest.

Even the Treasury itself. What did the Congress do on the insistence of the administration last year? We had nothing but a raid on the Treasury. We have not seen anything like this since Andrew Mellon was last giving the Treasury away 40 years or more ago. And what happened then? It took almost a revolt on the part of the American people and a lot of suffering and travail, as unnecessary then as it is unnecessary now, and far more inexcusable and unforgiveable now than perhaps we can say in retrospect was the case 40 or 45 years ago.

What I address myself to here today is the fact that if an airline like Braniff has to take it out on its employees while the chairman of the board and the President of the United States meet in secret, and the President has to meet furtively with the Chairman of the Federal Reserve, who condescended to meet with him—what happened? We do not know. All we know is that whatever the purpose of the meeting was, it is not stated who won. Certainly the Chairman of the Federal Reserve Board says that he is not only absolutely confirmed in his course of action, which has led to the highest interest rates in the history of this country, or any, for that matter, and to what is obviously not a recession but a depression.

The Congress. Disappointed as I am, I have faith only because the people, the plain, ordinary vanilla citizens, are way ahead of the politician and the President and his advisers and all of the economists' panjandrums, the people, the ones I have talked to, the ones I have visited with intimately, not only recently but through the years, the small, the truly small businessmen, they know, they know what the problem is, they know what the cause is, they know who is responsible, and they know what can be done about it. Maybe not in precise terms. After all, they are not the ones who are in the seat of power. That is our responsibility.

I say, Mr. Speaker, that the handwriting not only is on the wall, it is more than handwriting. It is a voice, strong, vibrant, clear, and it is emanating from the people, whether it is the small businessman in the adjoining State of Virginia, with whom I have talked, or a host of small businessmen in Texas, from Fort Worth to Brownsville, Tex., with whom I have met, or whether it is my own constituents. And if we ever continue in this frozen indifference that amounts to a callous disregard of what is happening now, as reflected in the President's state of the Union message this last month, in which, incredibly, a President, in fulfillment of a constitutional mandate to report on the state of the Union, never even mentioned the current vibrant, turbulent problems currently facing the Union, but gives us an address that could have been prepared a year ago, about some illusory program known as New Federalism, in which he does not even bother to first run a poll with the leaders in the legislatures or the Governors of the various States to see what if anything there is a possibility of reality in this illusory program. And as the Governors told him in their majority last week, they will have no use for it. This was the state of the Union. No mention about the 10-percent unemployment.

You know, percentages are percentages. But human beings are alive and kicking human beings. How can you imagine 10 million Americans—the truth is, it is more than 10 million—how can you imagine the anguish, the social destruction that is going on now with Americans who want to work, are able to work, are willing to work, but cannot find work, with the President saying, "By and by, my friend, Guyana-like, like Jonestown, take this potion, this will cure you, this is an economic recovery potion," and everybody rushes, mesmerized—the Congress, the private sector, the press, and, of course, all the partisans on the other side—just like a giant Guyana, like a giant Jonestown, and everybody is saying, "Well, this is a charismatic leader, we will take the potion because he says it is going to cure us, even though the people are dropping dead all around."

But let us never forget one thing about Guyana. Reverend Jones had some enforcers, and when a couple of the small ones and some of the younger ones and some of the older ones said to him, "Well, wait a while, maybe we won't," they were either shot or threatened to be shot. And this is what we are going to eventually get in America?

Well, Americans, let me tell you something: Nobody in Germany, in the Weimar Republic, would ever have said that would happen to Germany. And it did. The German people were not inferior. They were not less smart, they were not less virtuous than Americans then are now. And it happened there almost developing in that path, because all history shows us that when a country develops the set of forces that we have put in motion in this country now, and when you have failure, which is inevitable in this case, the inevitable thing then is for people to say, "We will take anything," just like in Germany, when the German worker could not find work and his dollar or mark could not buy anything, or whatever he got was insufficient with which to buy, and his children were crying for milk and bread and he could not get it—do we blame him? If the devil had come with pitchfork, horns and tail and brought a basket of groceries, he would have followed him. How can we blame him? And Hitler came along. And he did. He got the bag of groceries, even built the autobahns and everything else, and he gave them employment. But you know the rest. Some of us are of that generation. Most Americans today are not.

And yet here in the case of this agency known as the Federal Reserve Board where, through not misfeasance necessarily, but acts of omission, both the Congress, the people's representatives particularly, and the President have been content to forsake and strip naked the American people of any protection they can have from the predatory. We have always had predators. I have brought out here the history of the Federal Reserve Board, why in 1913 the Congress finally enacted, in a

history so unnervingly parallel to what is happening today and that it is of course a source of dismay, almost demoralization for me, to see that even the likes of me would have to get up and speak in this manner. It certainly is not pleasant. And yet it has to be said. And maybe perhaps eventually not I, but somebody else—though time is on us and time is awasting, as we say—but hopefully it can, hopefully it can trigger, hopefully we can reach the marble halls of the real powerful, the plush corporate offices of the wielders of power in America. The Federal Reserve Board, as I told Chairman Volcker to his face when he appeared before the committee, is actually obedient only, out of the 14,000 commercial banks in this country, more or less, it is really obedient to less than 10 of them and what they want and what they dictate. And I think that the American people are entitled to know that that is where the decisions are being made that determine that the great American dream of a family having the right—not the privilege—to have a safe and decent home available to him and to his family or her and her family—that dream shattered.

Mr. Volcker says, "These policies, yes, they will result in the diminution of the standard of living for some Americans." Well, which? Ninety-five percent. All but David Rockefeller. Chase Manhattan Bank had a lot to do with determining the very resolution passed out of this House with respect to Poland and with respect to the agitating problems that are confronting us on the international level and which impinge on the domestic. And the Congress reacts immediately—$5 billion for the IMF so that it can help some of the so-called developing nations that are unable to make their payments to Chase Manhattan, the First City National and the others that have poured billions and billions and billions of dollars into these questionable ventures. Yet they are the ones that say that is not inflationary.

Mr. Volcker does not say that the Congress ought to cut back. But he says such things as food stamps, mind you, such things as grants at below interest rate payments, or loans to farmers or to small cities or to large cities for drainage, for sanitation systems, that is inflationary and must be cut. Subsidized housing programs, loans or grants, FHA, social security, oh, that is inflationary. But not $5 billion, not $1½ billion more last year than ever before for foreign aid, on the insistence of the same President who says that is not inflationary but $300 million is if it is for food stamps.

□ 1630

This is the inanity. This is the perversion of priorities. This is the wholesale abdication of trust and responsibility that I speak of and it is all focusing on this one great, gigantic, mammoth agency that has these tremendous powers without the least responsibility or accountability to the American people.

There is nobody in this Congress or anywhere else, even the only watchdog agency we have available to us, the General Accounting Office, they cannot tell me if there is such a thing as an Inspector General in the Federal Reserve Board.

I raised my voice a couple years ago. I was not heard much, like this is not; but nevertheless, I went on record and raised questions about highly questionable transactions; the Bunker millionaires of Texas attempting to corner the silver market and what I consider to be the improper use of banking credit. Instead of available to the average businessman, to the engines and mechanisms of our industry and factories, it was being used for speculative purposes of the most ruinous kind to try to corner the silver market.

That was done only because Mr. Volcker and the Federal Reserve winked. They did not enforce the law there. They did not have to account to anybody and they told the Congress so, and without a whimper the Congress has taken it and so have the Presidents.

I say that this grave responsibility rests upon us squarely and that it should be addressed immediately, that even 1 more month of any kind of fundamental interest charge of more than 10 percent is willfully wrong. It is criminal. It is not beyond the pale of control.

The day has not come when that inherent power in not in the people, and that means the representatives and agents of them, and that is us. That is upon whom this trust lays.

I am saying that one good place to start, even if it is just to get the initial action of attention on the part of the congressional level, is at least a consideration of my impeachment resolution by the Committee on the Judiciary; but at least also the other responsible committees, like the Banking Committee. Long ago we should have been having hearings on the accountability and lack of accountability on the part of the Federal Reserve Board.

When I also raised my voice at the same time about the so-called silver hoax transactions, I raised my voice about what was obviously a killing of millions and millions of dollars, because secret information was leaked out of the deliberations of the open market committee.

Now, if that happened in any other branch of the Government, it would have been subject to investigation. The best I could do was to get a response from the Federal Reserve Board then that they were going to appoint an in-house committee to look into the matter. If they did, nobody has heard. If they did anything, nobody knows what it is, and the GAO tells me they do not have the means to go into the Federal Reserve Board and look it over and the Congress will not do anything about it. When they last tried to do that a few years ago, when our committee had that great American and great Texan as its chairman, Wright Patman, we could not get the majority of our colleagues to go along with us.

The question is, why? What is so wrong, what is so violative of any inherent right to have accountability, an accountability of the most important kind, because it has to do with the very essence of the economic and financial well-being of the great Nation.

So I am hopeful that Mr. RODINO will, indeed, and in fact have already followed through on his promised instructions to the staff.

In the meanwhile, I promised them to do it myself and I will do it from this forum on future occasions.

Mr. Speaker, the letter to the Honorable PETER RODINO and his response is as follows:

NOVEMBER 12, 1981.

Hon. PETER W. RODINO, Jr.,
*Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: As you know, I have introduced a resolution calling for the impeachment of Paul A. Volcker, Chairman of the Federal Reserve Board. This is to request that you set this matter down at the earliest possible time for public hearings.

I believe that Chairman Volcker is guilty of committing the most grave abuses of governmental power, subverting our system of government, and that he is unfit to continue in public office. He has systematically defied and obstructed congressional efforts to monitor, review and oversee monetary policy. He has thereby made it impossible for Congress to fulfill its legislative responsibilities with respect to economic policy.

Since introducing my bill, a number of our colleagues have expressed doubt to me that Chairman Volcker is guilty of violating any criminal laws and therefore could not be impeached. But you and the Members of Your Committee know, as well as I, that a government official need not violate the criminal statutes in order to be guilty of impeachable offenses under the Constitution.

Your own Committee took the broad view several years ago, when President Nixon's case was being considered, that impeachment is a Constitutional remedy provided to deal with serious offenses against our system of government. The accepted view is that an impeachable offense includes flagrant abuses of governmental power that undermine the structure, and the system of government, or undermine the integrity of the office or the Constitution.

By abusing his authority concerning the monetary activities of the Federal government, Chairman Volcker has virtually destroyed the check and balances principle that underlies our system of government. The powers he exercises exceed those delegated to his office by Congress and effectively negate attempts by the executive or

legislative branches to formulate and adminster economic policy.

The chairmanship of the Federal Reserve Board, under Mr. Volcker, has become tantamount to an economic junta, unelected by the people and unaccountable to the people's representatives. So far as the national economy is concerned, we have become neither a nation of laws or even of men, but only of Paul A. Volcker.

Sincerely,

HENRY B. GONZALEZ,
*Member of Congress.*

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DECEMBER 11, 1981.

Hon. HENRY B. GONZALEZ,
*House of Representatives, Rayburn House Office Building, Washington, D.C.*

DEAR HENRY: I have received your letter concerning your resolution calling for the impeachment of Paul Volcker, Chairman of the Federal Reserve Board. I have asked my staff to conduct a preliminary review of your resolution and any available evidence which would support such a resolution. Due to the extremely heavy legislative work-load in these closing weeks of this session, I do not anticipate any action in the near future.

I fully understand the feelings which compelled you to introduce the resolution, and I am aware of your deep personal interest in the effective functioning of the Federal Reserve System and the American economy. I can appreciate your efforts to take whatever steps are necessary to ensure that our economy regains its health.

With warm personal regards,

Sincerely yours,

PETER W. RODINO, Jr.,
*Chairman.*

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## ILLINOIS-MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 60 minutes.

● Mr. CORCORAN. Mr. Speaker, I am pleased to introduce today legislation to establish the Illinois and Michigan Canal National Heritage Corridor which runs from Chicago to LaSalle, Ill. Ever since my election to Congress in 1977, I have introduced legislation to enhance and protect the beautiful and historic Illinois and Michigan Canal, which runs through my hometown in Ottawa, Ill.

A group of active volunteers who dedicated hundreds of man-hours to renovating the canal and some historically minded people who recognized the recreational and historic potential of the canal were the primary reason for my active legislative involvement.

In addition to this, I wrote to the Secretary of the Interior requesting a reconnaissance study by the National Park Service for the Illinois and Michigan Canal.

The resulting favorable report led to a further, more detailed study of the canal and the Des Plaines River Valley. Released last December, this excellent study was directed by Dr. John Peine—National Park Service—and formed the basis for the legislation I am introducing today, which creates a plan for development of the recreation, historic, and economic potential of the canal and river valley area. Working closely with Illinoisans concerned with the development of this Heritage Corridor plan, Dr. Peine's report calls for a partnership among Federal, State, local entities, and the private sector to develop the recreational potential in the area.

This grassroots approach to the study was reflected in the development of the legislation itself. Several meetings with members of the business community and representatives of historic, recreation, and conservation interests were hosted by congressional offices, resulting in the legislation introduced today. This bill represents several months of hard work and careful crafting to insure adequate representation of each partner.

Specifically, the bill creates a new national designation in the National Park System called a Heritage Corridor, which calls for no major Federal role in land acquisition or in operation and maintenance and no new environmental or access restrictions. Rather a Federal commission is created to coordinate the implementation of the goals listed in the National Park Service report.

The major functions of this Commission are to market the resources in the corridor and to assist in raising funds for projects to further develop the recreational potential of the canal and the Des Plaines River Valley.

The voting membership of the Commission would consist of equal ratios of public representatives, including a National Park Service representative, members of the business community, and representatives for conservation, historic and recreation interests, for a total of 15 members. All, except for the Park Service representative, would be appointed by the Governor of Illinois.

In order to determine the economic benefits that I feel assured will impact positively upon the corridor, I have also called for a study of the economic impact of activities recommended in the Park Service report. Matching funds by another funding source will be necessary to initiate the study, which must be completed no later than 6 months after this bill has become law.

The Commission will then be able to draw upon the conclusions of the study when coordinating the further development of the Heritage Corridor.

Furthermore, the Heritage Corridor designation is clarified in the legislation to allow no modification nor establishment of any regulatory authority of State and local government, including land use regulations, environmental quality, or pipeline or utility crossings. Participation in corridor programs by any firm, public or private owners is on a voluntary basis.

We are also requesting that the Interior Department provide technical assistance in the form of interpretative studies, feasibility studies and fundraising consultation. In addition, we have provided for the placement of two Interior Department personnel on the staff of the Commission.

Finally, the canal title question, which has been a source of controversy over the past years between the State of Illinois and the Army Corps of Engineers, has been resolved in this legislation.

The Federal Government is to release all remaining rights it holds to the title of the property associated with the canal except for the canal prism and towpath. The Secretary of Interior is instructed to release this section to the State only if satisfied that the State is fulfilling its commitment to using the canal for primarily recreational purposes.

This Heritage Corridor is an exciting new concept in park developments, and I am proud that Illinois, which has no national designation for recreation other than the 12-acre Lincoln homesite, can be the innovator of a new trend in national designations.

It reflects the new federalism philosophy supported by President Reagan and relies heavily upon cooperation among Federal, State, and county entities and the private sector.

Already we have a commitment by the State for the loan of two staff people, one each from the Department of Conservation and the Department of Commerce and Community Affairs.

The county forest preserves have also committed funds to developing trails which run through their districts. Members of the private sector, including prominent industries located in the corridor, have expressed an interest in taking advantage of the income tax deduction provision for donations to the Commission for the improvement of the corridor.

There is a lot of enthusiasm and support at the local level, too, with many canal towns already endorsing the concept along with State legislators and other individuals and organizations. Even before this Heritage Corridor idea was created, many persons donated time and money into improving the canal.

As a measure of the community's support, Mr. Speaker, I am pleased to mention that two organizations have recently been formed to provide a means of encouragement for the corridor project.

First, the Upper Illinois Valley Association was organized to bring together industrial interests along the corridor for the support of the creation of the Heritage Corridor. This association, led by the Ottawa-Silica Co. and Material Service Corp., has been actively involved in negotiations on the

legislation and has successfully provided a focal point for industrial support for this project.

In addition, the Friends of the Canal Corridor was formed by interested individuals and conservation, historic, recreation, and other involved groups to display a broad spectrum of involvement from many communities working for the preservation of the historic Illinois and Michigan Canal Corridor.

Over 100 endorsements of support have been garnered by the Friends group, including local and statewide groups who recognize the potential value of the corridor.

I am happy to report that the business community has donated time into making legislation sensitive to their interests, too. Three Rivers Manufacturers Association, and in particular Caterpillar Tractor Co., Union Oil Co., Commonwealth Edison, Olin Corp., and Northern Petrochemical, have displayed exemplary leadership during the discussions on this bill.

In fact, I met with several representatives of business and industry recently and was presented with their ideas for improving the legislation, and many of these suggestions were incorporated into the bill I am introducing today.

I would also like to commend the Illinois Bell Telephone Co. for conducting a study which found that, if existing community resources in the Heritage Corridor were effectively marketed, 700 new full-time jobs would be created. Our area has been experiencing a bad economic downfall, yet this study shows that if we promote what we already have developed we could significantly and positively impact on the economic climate in north central Illinois.

Finally, I would like to commend the Open Lands project, particularly Gerry Adelmann, who has been a successful mediator between all parties concerned with the legislation. Open Lands laid the foundation for the cooperative negotiation between the conservation groups and the business community during the discussions on legislation.

The encouragement and on-going support for the corridor project is a credit to this not-for-profit organization. I hope this group will continue its leadership role in Illinois with regard to developing the recreational and historical potential of the Illinois and Michigan Canal and the Des Plaines River Valley.

The Secretary of the Interior Department, James Watt, has termed the Illinois and Michigan Canal National Heritage Corridor concept daring and precedent-setting. I am confident that we can live up to his enthusiastic description when implementing the Heritage Corridor project. I urge my colleagues to support our legislation.●

## A MODEL FOR PUBLIC SERVANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. ROGERS) is recognized for 10 minutes.

● Mr. ROGERS. Mr. Speaker, I would like to bring to the attention of the Congress the retirement of an outstanding public servant, Mr. Squire Baker, the county court clerk in Clay County, Ky.

Mr. Speaker, it is not difficult to find men in public service who are capable in performing their duties. Nor is it difficult to find men in public service who are noteworthy because of their dedication to serving the public. But it is difficult to find a public servant who is both excellent in the performance of his duties and, at the same time dedicated to benefiting his fellow man. Mr. Squire Baker is just a man.

In following his career, I have long been convinced that Mr. Baker should serve as a model for other public servants. And it is for this reason that I would like to describe him for the public record.

First and foremost, he is a family man. His wife, Evelyn, and his children, Robin, Betty Sue, Janet, Fred, Margaret, and Kay are the kind of family many men only dream of having.

He is a church-going man and the kind of neighbor who is always on hand when there is any need.

And he is an old-school politician, a real mover and doer in local politics.

And through this all, he has been county court clerk in Clay County for 36 years. And he has been a public servant in the old-fashioned meaning of the word—he has taken care of the public's needs.

To give you an indication of the deep esteem and affection which his hometown holds for him, I would like to tell you a story I was recently told about this gentleman.

It seems an elderly lady came into the courthouse to record a deed one day. Mr. Baker helped her complete her business and recorded her deed. The lady asked what the fee was for the transaction and, in reply, Mr. Baker smiled and said that she was in luck. He told her that this was a Tuesday and that they always recorded deeds for free on Tuesdays.

Apparently this lady had been working hard to make ends meet. So as she walked out the door, Squire Baker took the money out of his own pocket and put it in the till.

That is typical of Squire Baker—family man, churchman, public servant. Clay County will miss him and America will be the poorer on the occasion of his retirement. But my only consolation is that I know that some men, even when they retire from office, will never stop serving the public and benefiting their communities. And Mr. Squire Baker is certainly one of these men.

Mr. Speaker, in looking through the halls of the bureaucracy in Washington and examining our own standards for public service, I can only suggest that we take a careful look at the record of Mr. Baker. His dedication and accomplishment in public service can be a needed reminder for us all.●

## H.R. 5565, THE HEALTH IMPROVEMENT ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FOGLIETTA) is recognized for 5 minutes.

● Mr. FOGLIETTA. Mr. Speaker, I rise today to introduce the Health Improvement Act of 1982. This bill would create an optional loan forgiveness program for recent graduates of medical, osteopathic, and podiatry schools, specializing in primary care, psychiatry or podiatry, who choose to locate their private practice in health manpower shortage areas.

As we move away from a national policy of providing scholarships, to medical schools, and low-interest loans for medical education, toward one of market-rate loans and debt burdens carried singularly by medical students and their families, we are creating adverse incentives for recently graduated doctors. The skyrocketing costs of medical education results in the need for most medical students to borrow large sums of money to complete their education. In Pennsylvania, many first-year medical students anticipate debts of $50,000 or more.

We should not deny that physicians, in view of their high future income potential, should pay the major share of their educational costs, but the dangers we face, and the incentives we create by not buffering debts of this magnitude are twofold: First, higher debts tend to draw physicians into higher paying specialties and geographic areas where there is greatest potential to pass their indebtedness onto patients and insurance, away from primary care specialties and underserved areas, and second, staggering tuition and fees discourage financially disadvantaged minority students from aspiring to careers in medicine.

The Health Improvement Act is a simple mechanism designed to keep our national commitment to assuring accessibility of quality health care for all Americans, and to enable recently graduated physicians who might otherwise opt for a more lucrative practice, to pursue a primary care, psychiatric or podiatric practice.

The Health Improvement Act incorporates a number of provisons designed to accomplish this dual goal. First, the bill would provide forgive-

ness for an increasing percentage of the physician's Federal direct loans or guaranteed loan obligations incurred during the course of the individual's medical education for up to 6 years, in exchange for a post graduate choice to serve as a primary care provider, psychiatrist or podiatrist in a health manpower shortage area. Second, the act would provide that those physicians who exercise this option agree to serve that medicaid population and accept assignment under the medicare program. Third, the bill provides a graduated schedule of loan forgiveness for up to 6 years, acting as an incentive to keep the physician in the underserved area for many years.

There are some significant differences between the loan forgiveness program and the National Health Service Corps, which is currently the primary vehicle for reducing geographic and specialty maldistribution of physicians.

First, the Health Improvement Act is available to primary care physicians who open private or group practice in an underserved area. The National Health Service Corps provides health professionals to areas classified as manpower shortage areas. Most of the NHSC recipients receive full tuition and stipend support while in medical school, for which they owe service on a year-for-year basis, and are paid a salary by the Federal Government during their payback years.

Second, under the Health Improvement Act, a commitment will be required only at the time when all medical students, regardless of financial need, are making their specialty and geographic decisions. Under the NHSC, the medical students' decision to pursue a primary care, psychiatry or podiatry specialty and to practice in an underserved area are made when the medical students need financial assistance prior to, or during their medical education. Besides requiring students to make premature career choices, the NHSC commits the Federal Government to subsidizing the education of students 4 to 7 years prior to the time when future manpower needs are known.

Third, under the Health Improvement Act, once a physician shortage area has been filled by a practitioner, the manpower shortage area designation would be removed to prevent unnecessary subsidization of personnel. Under the NHSC, the shortage area designation is removed only after a community or individual files a request for removal with the Secretary of HHS.

Fourth, the Health Improvement Act provides a graduated scale of loan forgiveness for physicians who remain in underserved areas for longer periods of time. The average length of service in the NHSC is 3 years.

Fifth, the Health Improvement Act is cost effective, allowing a maximum payment of $25,000 per year per physician for 6 years only. The annual NHSC scholarship cost is $15,629, and the average salary cost per NHSC member is $40,300.

Finally, it must be emphasized that the Health Improvement Act interferes in no way with the budgetary savings reached under reconciliation. No significant funding is authorized for the Health Improvement Act's loan forgiveness program until fiscal year 1985—when NHSC physicians serving in underserved areas complete their obligations.

The Federal Government has made a commitment to the poor, elderly, and the geographically isolated. The NHSC is just one example of that commitment to accessible health care for all Americans. The Health Improvement Act is designed to continue that commitment in a much more cost-effective way than the NHSC. The Government has long played a major role in the assurance of high quality health care. Denying a medical education to extremely qualified individuals simply because they are from low-income backgrounds impedes our pursuit of quality health care services. The Health Care Improvement Act is one fact of a number of long-range reforms needed to check the rate of increases in health care costs. Encouraging primary care services in other additional ways, including making competitive changes in our medicaid and medicare reimbursement mechanisms, will lead to lower costs to the Federal Government.●

## JOE F. MEIS RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. HUTTO) is recognized for 15 minutes.

● Mr. HUTTO. Mr. Speaker, last week the men and women of the U.S. Air Force and the Defense Department bade farewell to an exemplary public servant of nearly 42 years. Mr. Joe F. Meis, Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) retired from a combined military and civilian defense-oriented career, which started in 1940 as a member of the State of Oklahoma's famous 45th Infantry (Thunderbird) Division.

On February 26, 1982, Mr. Meis was singularly honored at a luncheon hosted by the former Congressman Bob Sikes of Florida. Joining in honoring Mr. Meis were members of the Florida delegation, headed by Senator LAWTON CHILES, senior Congressmen CHARLES E. BENNETT, and CLAUDE PEPPER, and Secretary of the Air Force Verne Orr.

Mr. Meis is the consummate professional civil servant. His service to the country as a member of the defense team is best categorized by his devotion to duty, the sacrifice of personal convenience and gain, and an all-consuming desire to make things better for those in the U.S. Air Force. During recent years, as the principal executive and adviser to the Assistant Secretary in the overall management of all manpower, reserve component affairs, and installations management programs, Mr. Meis was at the leading edge of the Air Force's efforts to improve the living and recreational needs of its people through numerous quality of life projects. He had a significant hand in the ongoing Air Force program to provide for necessary facilities modernization and improvement projects.

His biographical sketch, which is included in this special order, clearly shows the depth and breadth of his influence on the U.S. Air Force and our national defense efforts. It is with a great deal of pride and honor that I bring this matter to the attention of my colleagues in the House, in praise and expression of thanksgiving to this outstanding American citizen for his dedicated efforts in making the U.S. Air Force a better way of life for her people.

JOE F. MEIS, PRINCIPAL DEPUTY, ASSISTANT SECRETARY OF THE AIR FORCE (MANPOWER, RESERVE AFFAIRS AND INSTALLATIONS)

Mr. Joe F. Meis became Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) on March 1, 1978. As Principal Deputy, Mr. Meis functions as the principal executive and adviser to the Assistant Secretary and participates with him in the overall management of all manpower, reserve component affairs and installations management programs.

Mr. Meis was born in Hays, Kansas, on February 24, 1922, and attended public schools in Sharon Springs, Kansas. He studied at The George Washington University in the District of Columbia and the Federal Executive Institute at Charlottesville, Virginia. He is a member of the American Institute of Plant Engineers and the Society of American Engineers.

In September 1940, Mr. Meis joined the United States Army as a private, serving with the 45th Infantry Division at several stateside locations before moving overseas in 1943 to participate in the assault landings at Sicily, Salerno and Anzio in Italy and in Southern France. In 1946, Mr. Meis was released from active duty and joined the Colorado Air National Guard.

During the Korean War, he was recalled to active duty as a lieutenant colonel for service at Headquarters Far East Air Forces, Tokyo, Japan. He was released from active duty in 1953 and rejoined the Colorado Air National Guard. In 1954, Mr. Meis re-entered active duty and held positions at Headquarters United States Air Force and with the National Guard Bureau until 1968.

In July 1968, Mr. Meis joined the Office of the Assistant Secretary of the Air Force for Installations and Logistics as Real Property Maintenance Administrator in the Office of the Deputy Assistant Secretary for Installations. In March 1974, he moved up to become the Deputy for Installations Man-

agement. He was designated Acting Deputy Assistant Secretary for Installations on September 15, 1975, and served in that position until becoming Deputy Assistant Secretary for Installations six months later, a position he held until his appointment as the Principal Deputy Assistant Secretary. Mr. Meis was designated the Acting Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations) from May 19, 1979, through February 14, 1980.

His military decorations and awards include the Legion of Merit, Bronze Star Medal with one oak leaf cluster, European-African-Middle Eastern Campaign Medal with two service stars and an arrowhead, Korean Service Medal, and Combat Infantry Badge. He received the Pennsylvania Meritorious Service Medal in 1967 from the Governor of Pennsylvania. In 1973, he was awarded the prestigious Air Force Exceptional Civilian Service Award, followed, in 1977, by the award of the Air Force Meritorious Civilian Service Award. In 1979, Mr. Meis was awarded a second Air Force Exceptional Civilian Service Award. In 1980, Mr. Meis received the Presidential Meritorious Executive Award.

Mr. Meis is married to the former Louise E. Robertson of Abilene, Texas, and has three sons.●

## IMPORTANCE OF SMALL BUSINESS TO THE NATION'S ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

● Mr. STARK. Mr. Speaker, in recent years, there has been an increased recognition of the importance of small business to the Nation's economy. Small business has been proven to generate jobs and innovations far more quickly and efficiently than large business; 97 percent of all business enterprises in the country can be classified as small.

Coupled with the growing appreciation of independent business has been an increased awareness of the importance of venture capital, money invested on a long-term basis in small and new firms with significant growth potential. During the last Congress, a major securities statute, the Small Business Investment Incentive Act of 1980, was passed for the purpose of facilitiating venture investments in small businesses. Prior to the passage of the 1980 act, all public venture capital vehicles were regulated by the Investment Company Act of 1940. The Investment Company Act was originally designed to regulate mutual funds, and toward that end it has been extremely effective. However, as the modern venture capital industry evolved in the sixties and seventies, those venture firms which offered their stock to the public found that they also fell under the jurisdiction of the 1940 act.

That was a problem. Venture capital companies do not simply buy and sell stock in their portfolio companies—they make longterm, 7 to 10 year, loans and equity investments and provide substantial management assistance to nurture the growth of the small businesses in which they invest. Often, the small concerns require follow-on injections of capital after the initial investment is made. Venture capital companies, because of the nature of their business, found it extremely difficult to operate under the restraints of the Investment Company Act.

Congress recognized the special regulatory needs of the venture capital industry when it passed the Small Business Investment Incentive Act of 1980. While maintaining strong investor protection provisions, the 1980 act exempts public venture capital companies from the most troublesome aspects of the 1940 act. It allows them instead to elect treatment as business development companies (BDC's).

The new law is much more conducive to activity by public venture capital companies, and it is acceptable to both the SEC and the venture capital industry. To make the law fully effective, however, a technical amendment must be added to the Tax Code to provide BDC's operating under the 1980 act the same tax treatment they received as public venture capital companies under the 1940 act.

Under section 851 of the Tax Code, regulated investment companies that meet certain requirements can elect conduit tax treatment, thereby paying no income tax on earnings distributed to shareholders. One of these requirements is registration under the Investment Company Act of 1940.

Obviously, companies which elect treatment as BDC's under the 1980 act will no longer be registered under the 1940 act. The technical amendment I have introduced will simply extend conduit tax treatment to BDC's.

I urge my colleagues to support this legislation as the necessary and logical continuation of an effort by Congress to stimulate venture investments in small firms.

H.R. 5683

A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of business development companies

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. BUSINESS DEVELOPMENT COMPANIES.

(a) IN GENERAL.—Subsection (a) of section 851 of the Internal Revenue Code of 1954 (defining regulated investment company) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:

"(3) which is a business development company within the meaning of section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)), as amended."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.●

## U.S. REFUGEE RESETTLEMENT POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, the Honorable HAMILTON FISH, JR., the ranking minority member of the Subcommittee on Immigration, Refugees, and International Law, which I have the honor to chair, recently delivered an excellent and thought-provoking address on the various refugee resettlement problems confronting this country.

His comments reflect the need for taking a careful look at our current resettlement policies, particularly as our subcommittee embarks upon its legislative task of reauthorizing the Refugee Act of 1980 during this session of the 97th Congress.

Congressman FISH makes several important administrative and legislative recommendations to improve the operation of our resettlement program and recognizes the need to share the resettlement burden on a more equitable nationwide basis. In his speech, he also addresses the need to develop more reasonable refugee placement policies and the desirability of a cooperative effort between the Federal, State, and local governments and the voluntary agencies in the development of those policies.

Congressman FISH also quite properly criticizes the "ready availability of prolonged cash assistance to refugees" and notes that the United States "is acculturating refugees to welfare and turning them into a dependent population."

I fully share Congressman FISH's concerns that refugees are relying on our welfare programs in increasing numbers and that dramatic measures must be taken to reduce the current welfare caseload.

Because of the importance and timeliness of Congressman FISH's remarks, I wish to insert them into the CONGRESSIONAL RECORD at this point so that they can be shared with my colleagues:

THE CRISIS IN REFUGEE RESETTLEMENT

American voluntary agencies, after a long history of successfully resettling people from all parts of the world, have been losing refugees to the enticements of the public welfare system. An astonishing 67 percent of refugees in the United States three years or less—according to recent figures—receive cash assistance. "What we're starting to see," observed Joe Diaz, California's Deputy Director of Health, "is the beginning of a cycle in which you have the second and third generation going on welfare." Ambassador Marshall Green, the chairman of a

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special refugee advisory panel, found that ". . . there are mounting concerns in Orange County (California) and elsewhere over the increasing size of refugee welfare budgets . . . and the lengthening time many refugees appear to spend on welfare rolls." Mayor Gordon Bricken of Santa Ana, California, noted in recent immigration subcommittee oversight hearings that the "impact (of refugees) is positive in many ways, but the costs to communities like ours are tremendous." The Executive Director of a major refugee resettlement agency poignantly expressed the concern during our hearings that "we are pricing refugees out of the market." The Subcommittee heard an eloquent appeal from Charles Sternberg, on behalf of the American Council of Voluntary Agencies for Foreign Service, "that possible solutions to our domestic problems in resettlement not be sought by endangering human lives overseas."

The American people repeatedly have affirmed their concern for persons escaping persecution. The Select Commission on Immigration and Refugee Policy, a joint Presidential-Congressional Commission, expressed its support last year for the "continued U.S. commitment to the acceptance and aid of refugees, finding in that commitment not only a well-founded, humanitarian tradition but a means of both stabilizing world order and of reaping national benefit." Last summer Ambassador Green's advisory panel persuasively outlined the foreign policy dimensions of United States refugee policy toward Indochina. "United States assistance and resettlement," the Green report noted, "have been vital factors in maintaining stability and unity among (Southeast Asian) nations."

There is an important interrelationship between America's response to the world refugee situation and the continued vitality of our relationships with other countries. We know that Southeast Asian nations acted in direct reliance on American resettlement assurances in offering first asylum to hundreds of thousands of refugees. A radical and precipitous curtailment of our refugee acceptances would undermine American credibility in the region, detract from the close relations we have developed with these governments, and precipitate the loss of thousands of lives.

The United States appropriately is providing for a gradual reduction in levels of Indochinese refugee acceptances; we are phasing down the Indochinese refugee program in a way that is consistent with our international responsibilities. This year, the administration accepted a recommendation I submitted—together with two colleagues on the House Judiciary Committee—to reduce the ceiling on worldwide refugee admissions from a level of 217,000 for fiscal year 1981 to a level of 140,000 for fiscal year 1982. Last year's level was not reached, and absent an emergency in Poland or elsewhere, this year's level is adequate.

The United States, of course, vigorously should seek alternatives to resettlement in the United States. We must direct greater attention to reducing pull factors that induce the more casual refugee to leave Indochina. For example, testimony before the Immigration Subcommittee pointed to 41 refugee-related news items broadcast by the Voice of America's Vietnamese service during a four-month period last year. Twenty of these news items—an extraordinarily high number—dealt with rescues at sea. The VOA, in my opinion, must practice greater restraint and emphasize more balance in reporting refugee-related matters.

The relatively slim possibilities for rescues of "boat people" at sea are far exceeded by the chances of brutal treatment by pirates. Statistics compiled by the United Nations High Commissioner for Refugees document an 81% chance of pirate attack on refugee boats reaching Thailand—with an average of 3.4 separate attacks per boat. The unsettling reports of human cruelty include robbery, abductions, rape, and mass murder. News of this violence, which the United States abhors, should be brought home to people in Vietnam. Meanwhile our government should give strong support to efforts by the United Nations High Commissioner for Refugees to meet the piracy threat.

Our government, moreover, must encourage efforts by the United Nations High Commissioner for Refugees to arrange for voluntary repatriation to countries of origin. Finally, the United States must pursue, at the highest diplomatic levels, permanent settlement in countries of asylum and greater internationalization of the burden of refugee resettlement in third countries. Resettlement in the United States appropriately provides a solution of last resort to thousands of individuals and families seeking to escape persecution and reconstruct shattered lives.

The administration's consultation with Judiciary Committee members on refugee admissions took place this year against the background of a major change in public opinion. The recent illegal mass migration from Cuba and the continuing Haitian arrivals have caused many Americans to question our capacity to continue to perform a world leadership role in the acceptance of refugees. The flouting of our laws and the growing burdens resettlement imposes on states and localities are breeding resentment toward legitimate refugees. Public hostility and cost require a new look at resettlement policy.

A clear distinction needs to be drawn between legal and illegal flows. In recent months, I have participated in a series of House Immigration Subcommittee hearings focusing on the problems of illegal immigration. Congress, during the 1982 session, hopefully will adopt strong measures to discourage the flow of illegal immigrants to the United States. Part of this legislative effort will be directed at reducing the opportunities for illegal immigrants to obtain employment—since much research indicates that economic opportunity in this country serves as a magnet to people to enter illegally. Another important tool in addressing the illegal alien problem is the provision of adequate resources to the Immigration Service. Some of my colleagues and I succeeded in the last session in restoring the positions of hundreds of immigration enforcement officers. This year I plan to continue my efforts to provide the Immigration Service with the needed manpower to improve enforcement.

The present ceiling on refugee admissions represents only a fraction of the estimated hundreds of thousands of persons coming to the United States illegally each year. The appropriate agenda for the Congress is not to devise ways of abandoning America's role in providing hope, opportunity and freedom for persecuted people, but rather to bring the illegal flow under control. We can assert control over our borders and coasts while continuing to provide refuge to victims of persecution.

The American resettlement effort today focuses primarily on Indochinese. These refugees from Vietnam, Laos, and Cambodia have posed special resettlement problems and challenges. Unlike the Hungarian arrivals of the 1950s—who augmented an existing population of Hungarian descent that outnumbered them by a ratio of 18 to 1—the approximately 550,000 refugees from Indochina overwhelmed the 18,000 resident Indochinese. Soviet Jewish refugees in the 1970s—also in contrast to the Indochinese—benefited from a large existing ethnic community.

Historically refugee flows often bring people who share similar backgrounds. The Indochinese refugees, however, consist of distinct subgroups that speak separate tongues—and in the case of the Hmong possess no written language. Indochinese refugees, moreover, include city dwellers, farmers, and mountain tribesmen. Resettlement strategies obviously must be adapted to the needs of this diverse population.

We must address the serious problems in refugee resettlement if we hope to preserve the viability of a humane American response to refugee crises. U.S. News and World Report recently reported from California that "public services are stretched thin, funds for refugees are getting scarcer and a backlash of antirefugee sentiment is building up." A Congressional witness on behalf of the National Association of Counties pointed out that "counties are facing a tremendous impact of backlash." "Refugees," Mayor Gordon Bricken observed, "Have extemely strong motivation to adjust rapidly to our society, to recover lost status, and to make the American dream come true for themselves and their children." He concluded that "(w)e need to look at ways to tilt the incentives of the system away from welfare and toward rapid employment and self-sufficiency in order to use, and not frustrate, this potential productivity."

The time has come to recognize the pernicious effects of the ready availability of prolonged cash assistance to refugees. The Select Commission on Immigration and Refugee Policy last year recommended by a decisive vote that "refugee achievement of self-sufficiency and adjustment to living in the United States be reaffirmed as the goal of resettlement." A leader in voluntary agency resettlement efforts, Wells Klein, observed in testimony before the Select Commission that "seen as a group, refugees are not a dependent population, but rather a population in transition." The United States, unfortunately, is acculturating refugees to welfare and turning them into a dependent population.

The key to reversing this trend is greater reliance on the private sector. In this country refugee resettlement is undertaken largely by private voluntary agencies, the U.S. Catholic Conference, the American Council for Nationalities Service, and the International Rescue Committee, to name a few. The problem is that the Federal Government, instead of facilitating voluntary agency efforts to integrate refugees quickly into the work force, offers an alternative—prolonged cash assistance—that too often proves more attractive. Cash assistance is not an effective resettlement mechanism. The Director of Migration and Refugee Services for the U.S. Catholic Conference points out that "people resettle people" and "[T]here is no way that public agencies can provide the hands-on support system of caring neighbors and committed communities."

The Federal Government presently underwrites the full cost of cash and medical assistance provided to refugees during their first three years in the United States. The

Department of Health and Human Services—during the three-year period—provides reimbursement for that portion of the expense that normally constitutes the State's share. Financially eligible refugees who do not meet certain categorical requirements for the usual federal programs qualify for a special program of refugee cash and medical assistance—aid that is available only to refugees.

This policy fails to emphasize the importance of interim support directly related to the needs of an individual refugee or his family. Supportive services, with emphasis on health care, language instruction, and vocational counseling, are necessary during an initial stabilization period after entry to enable the refugee to adjust to a very different environment. Interim support is essential for many refugees but must be directed to the goal of early self-sufficiency. Some voluntary agencies are asking that administration of interim support funds be placed in the hands of those with demonstrated competence in case management. Privately administered temporary support, under this proposal, would replace the present federally administered program of refugee cash assistance. In addition, refugees no longer could turn to those public assistance programs that are available to citizens unless they first obtained the approval of their voluntary agency. The key differences between this proposal and the present system are first, the restoration of control to agencies with a commitment to refugee self-sufficiency, and second, the removal of the incentive for a refugee to postpone employment.

Refugees must have better access to social services designed to provide essential language training and employment counseling. Drastic cuts in social service funds are not cost-effective because they detract from our capacity to move refugees quickly into the work force. The social services portion of the refugee resettlement budget is minimal compared with the sums spent on cash assistance. We need to provide social services to refugees promptly after their arrival in order to avoid initiating the cycle of welfare dependency.

A major step in the direction of reducing reliance on cash assistance is a complete separation of Medicaid from welfare. A person in need of Medicaid today generally cannot apply without being offered cash entitlement programs. The spiralling costs of medical care make it impossible for many refugees to meet the health needs of their families during the initial period after entry into the United States—but this reality of modern life is no reason to introduce the refugee to our elaborate welfare system. Serious consideration should be given to providing voluntary agencies with authority to make determinations of Medicaid eligibility.

Several other initiatives can lead to major improvements in our refugee resettlement efforts. High concentrations of refugees in relatively few communities—basically 40 counties—have resulted in great strains on local economies and community services. A program of impact aid, designed to mitigate the adverse effects of large numbers of needy refugees, can assist local governments to meet the financial burden of providing essential services.

American refugee policy is formulated at the national level and represents, in substantial measure, a response to international developments. It is unfair, therefore, to impose excessive costs on a small number of counties. The Federal Government must face the reality of uneven distributions of refugees and provide assistance based on genuine community need. Assistance should not merely reflect numerical concentrations, because refugees, in various cases, have revitalized the economies of counties, instituted urban renewal efforts, and upgraded neighborhoods. Impact aid is needed when the refugee influx drains local resources.

The United States should develop a placement policy which recognizes the importance of family reunification, the capacities of communities to foster self-sufficiency, and the needs of refugees to cluster. The location of close family members predetermines the place of resettlement for many refugees; the bonds of family must be respected. The so-called "free cases"—refugees without close relatives—provide an opportunity for thoughtful placements in non-impacted areas. Opportunities for employment, the adequacy of housing, and the local capacity of voluntary agencies are all essential factors in these placement choices.

Small numbers of refugee families, left isolated from other refugees, are likely to experience loneliness, disillusionment, and serious adjustment problems. A cluster of critical size is necessary to provide refugees with a sense of familiarity and support in a strange land. The Select Commission recommended that "refugee clustering be encouraged." The Khmer Guided Placement Project, which targeted various American cities to receive Cambodian "free cases," represents a recent clustering effort—an attempt "to try to build stable Cambodian communities" in different parts of the country. The absence of a refugee infrastructure encourages the phenomenon of secondary migration—refugees leaving the community of initial resettlement in search of a more hospitable environment.

Secondary migration contributes in large measure to excessive refugee impacts in states like Texas and California. Refugees, moreover, also suffer because they experience again the dislocation of moving and must start all over in a new community. We need to combine more intelligent initial placements with inducements to remain in resettlement communities. Perhaps restricting some forms of assistance to places of initial resettlement can help deter secondary migration.

Ethnic groups in the United States have an important stake in the assimilation of refugees. The Hebrew Immigrant Aid Society offers a key example of a successful resettlement effort. We need an Asian Immigrant Aid Society or Indochinese Immigrant Aid Society to assist Southeast Asian refugees in the way HIAS assists Jewish refugees. The Asian American community should be involved actively in the assimilation of refugees from Indochina. Refugee resettlement is a cooperative effort, requiring the involvement of former immigrants and refugees with similar cultural ties. There is no substitute for cooperative interaction between refugees and individuals committed to their successful resettlement.

In recent months I have benefited greatly from the thoughtful advice of a number of individuals who have dedicated their lives to working with refugees. Various representatives of state and local governments, moreover, have shared with me their concerns about American refugee policy and their hopes for the future. The time has come for Administration officials, members of voluntary agencies, state and local officials with resettlement responsibilities, and Members of Congress to sit down together and face the serious problems and challenges that confront our refugee program.

The critical point is that we need not choose between unacceptable levels of public expenditures and an abandonment of our refugee program. We have the human resources in this country to resettle refugees at less public expense than in the past—and at the same time perform the resettlement task more effectively. I am confident that if we succeed in this effort—and I believe we will succeed—America in the years ahead will continue to respond with compassion to the plight of the persecuted of other lands.

Thank you.●

## AUDIO AND VISUAL RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. BONER) is recognized for 10 minutes.

Mr. BONER of Tennessee. Mr. Speaker, I plan to introduce legislation tomorrow which will both protect the right of the individual to enjoy audio and visual recording devices in the privacy of their own homes as well as insuring privileges of the copyright by songwriters, performers, and producers. This legislation not only addresses the problems created by the U.S. court of appeals' ruling that home taping of television programs constituted a criminal act, but also, many of the problems surrounding the pirating of tapes and records.

Mr. Speaker, late last year, the U.S. Court of Appeals for the Ninth Circuit reversed a district court ruling and held that off-the-air recording of audiovisual materials by VCR owners for private use constituted copyright infringement. The court of appeals based its decision on the absence of an explicit exemption for home video recording in the Copyright Act of 1976. The court also held that home video recording does not fall within the "fair use" doctrine which provides a limited exemption from infringement for limited uses of copyrighted works.

In the wake of the decision by the court of appeals, several of my colleagues in both bodies introduced legislation which would create an exemption from copyright liability for private use of home video recorders. I support the basic goal of legislation which would exempt home video recorder use from liability for copyright infringement. However, I believe that Congress, in legitimizing off-the-air home video recording, also has a responsibility to protect the rights of those who create and own nontangible property. This legislation is consistent with the copyright clause of our Constitution, the protection of private property which is one of the basic precepts of our economy, and the principles and practice of modern copyright law in the United States and in other industrial democracies. It is time to change the law so it can take into ac-

count the introduction of a new and important technology such as video records. But to stop here would be to accept only a half loaf. We must also use this opportunity to assist the music industry in their efforts to protect themselves from pirating of recorded music.

The legislation I am introducing tomorrow will not only exempt owners of home video recorders from copyright liability but at the same time tie into the already existing mechanism, the Copyright Royalty Tribunal, for compensation to the creators and owners of copyrights such as songwriters, publishers, performers, and producers.

The Copyright Royalty Tribunal—CRT—an administrative body created by the Congress in the 1976 Copyright Act, would determine appropriate and reasonable royalty fees to be paid by the manufacturers and importers of VCR's and blank audio video cassettes. This royalty will provide fair compensation to the owners of audiovisual programs for the home recording of their works. The Tribunal would distribute the royalty fees to copyright owners on a yearly basis, as it now does for royalty fees owed for the use of copyrighted work by cable TV and jukeboxes.

The Copyright Royalty Tribunal is the appropriate body to determine the level of compensation and it will do so in a full, evidentiary hearing after it has received testimony from a variety of interested parties.

Mr. Speaker, recent advances in audio taping technology and the increased availability of inexpensive, easy-to-operate, high quality recording devices have led to a virtual explosion of home audio taping. According to a study by the Roper Organization in 1979, 22 percent of the population engages in home taping. A CBS survey concluded that, in 1979, 40 million people bought 270 million blank tapes.

Moreover, home taping is increasing, with 55 percent of the blank tape buyers surveyed by CBS saying that they are taping more than before. The latest estimates indicate the loss of over $1 billion in record sales and revenue due to the current home taping trend. The Warner Study, which is due to be released soon, will show the most recent figures indicating even greater losses from home taping.

The members of the music industry who compose the songs, publish them, and then create the sound recording, earn their revenues predominantly from the sale of those records. The record sale produces income for the record company and provides a royalty payment to the publisher and songwriter.

More fundamentally, the reward the songwriter earns for his or her creative work is usually only a few cents on the sale of each record. Unlike the sale of tangible property, such as a car, where the car maker gets the entire compensation at the first sale, the copyright holder depends on many sales to produce even a modest earning on his or her creative effort. Home taping cuts dramatically into those sales and thus robs the copyright owner of the full value of his or her ligitimate earnings.

The recording business is exceedingly risky: 84 percent of the records released do not cover their production costs. Record companies rely on the revenue from the occasional hit to subsidize the others and to finance new recordings by unknown artists. Home taping siphons off those revenues so that there is significantly less resources available for the development of new artists. No industry can sustain such great losses and continue to operate for very long.

It is imperative that the Congress move without delay in passing this legislation. I will be talking with each of the other Members of Congress to seek your support on this vital legislation.

## INTRODUCTION OF THE MOTOR VEHICLE IMPORT LIMITATION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

● Mr. DINGELL. Mr. Speaker, the time has come to limit the continued importation of foreign automobiles into this country. Our economy is in disarray. Our domestic automobile industry is being bludgeoned into a depression. Automobile workers are being displaced by the thousands by plant closures and production slowdowns.

This year imported automobiles have captured over 31 percent of our domestic market. This is up from the 26-percent market share in 1981. Domestic production of automobiles is down 37 percent from this time last year. Sales are down almost 16 percent from a year ago. All of this has resulted in the indefinite layoff of almost 246,000 auto workers and the temporary layoff of an additional 34,000 individuals. If this slump continues, we will witness additional plant closures pushing more workers into the ranks of the unemployed.

The voluntary import restraint agreement negotiated between the United States and Japan, which limits imports to between 1.6 and 1.7 million vehicles, has been ineffective in light of the massive decline in production and sales of domestic vehicles. The market share of imports continues to increase while the health of our automobile industry worsens. Stronger measures must, therefore, be taken.

My good friend and colleague, Mr. HILLIS from Indiana, and I have, therefore, introduced legislation which is designed to substantially restrict the importation of foreign automobiles into the United States. The Motor Vehicle Import Limitation Act of 1982 would limit automobile imports to 10 percent of "domestic consumption" which is defined in the legislation as the quantity of automobiles produced in the United States during a calendar year, minus the quantity exported from, plus the quantity imported into, the United States. These calculations would be made in each year immediately preceding the determination of the import quota level. The Secretary of the Treasury would determine the actual number of vehicles a particular foreign manufacturer could import into the United States on the basis of previous market share.

The legislation also would provide for offset credits to foreign manufacturers who produce automobiles in the United States. For each vehicle produced in the United States, the foreign manufacturer would be permitted to import an equal number of automobiles into the United States over and above its quota limit. This will provide an incentive for foreign manufacturers to establish production facilities in the United States thereby creating jobs for American workers. The bill also provides an import exemption for U.S. manufacturers who produce automobiles in Canada and ship them into the United States.

We feel the Motor Vehicle Import Limitation Act of 1982 is legislation essential to the health of the domestic automobile industry and we call upon our colleagues for their support. The bill follows:

H.R. 5667

A bill to impose quotes on the importation of automobiles

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Motor Vehicle Import Limitation Act of 1982".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "automobiles" means on-the-highway, four-wheeled passenger automobiles provided for in item 692.10 of the Tariff Schedules of the United States (19 U.S.C. 1202).

(2) The term "domestic consumption" means the quantity of automobiles produced in the United States during a calendar year, less the quantity exported from, plus the quantity imported into, the United States during that year.

(3) The term "entered" means entered, or withdrawn from warehouse for comsumption, within the customs territory of the United States.

(4) The term "quota year" means each calendar year after 1982.

(5) The term "Secretary" means the Secretary of Commerce.

SEC. 3. IMPOSITION OF QUANTITATIVE LIMITATIONS.

During each quota year the total quantity of automobiles that may be entered may not exceed an amount equal to 10 percent of the domestic consumption during the immediately preceding calendar year.

SEC. 4. DETERMINATION OF QUANTITATIVE LIMITATION.

Not later than January 31 of each quota year the Secretary shall calculate, on the basis of the best available evidence, the domestic consumption during the immediately preceding calendar year, determine the total quantity of automobiles that may be entered under section 3 during that quota year, and immediately certify the determination to the Secretary of the Treasury.

SEC. 5. ADMINISTRATION.

(a) In General.—Subject to subsection (c), the Secretary of the Treasury shall take such actions as may be necessary to ensure that the quantity of automobiles that are entered during any quota year does not exceed the quantitative limitation determined under section 4 for that year.

(b) Allocation.—The Secretary shall allocate the total quantity of automobiles permitting entry during any quota year under this Act among supplying countries on the basis of the shares of the United States market for those articles supplied during a representative period. The Secretary shall certify such allocations to the Secretary of the Treasury.

(c) Offsets.—(1) A foreign manufacturer of automobiles that also produces automobiles in facilities within the United States may enter during any quota year a number of automobiles equal to the number produced by it within the United States during that quota year; and the number of automobiles permitted entry under this subsection shall not be charged against the quantitative limitation in effect for that quota year under section 4 and shall be in addition to any automobiles allocated with respect to that manufacturer under subsection (b) for that quota year.

(2) Automobiles that are entered duty-free during any quota year as Canadian articles pursuant to the Agreement Concerning Automotive Products Between the Government of Canada and the Government of the United States shall not be charged against the quantitative limitation in effect for that quota year under section 4; and Canada shall not be deemed to be a supplying country for purposes of subsection (b).

(d) Staging of Imports.—Any quantitative limitation imposed under this Act for any quota year shall be applied on a calendar quarter or other intra-annual basis if the Secretary determines that such application is necessary or appropriate to carry out the purposes of this Act.●

## IMPACT OF U.S. LAWS ON GUAM MUST BE STUDIED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. WON PAT) is recognized for 10 minutes.

Mr. WON PAT. Mr. Speaker, today I rise to introduce legislation which would establish a commission to study the impact of Federal laws on the territories.

The question of how the people of these islands are impacted by laws made for the 50 States has long been a troublesome one. We, on Guam, for example, have carefully studied this question and have come to the conclusion that many Federal laws actually hinder Guam's ability to be self-sufficient. This is to the point that many Federal laws actually have the reverse effect Congress wanted. Rather than encourage compliance with the law, statutes which are inappropriate for insular areas discourage such action because of high cost or unintended effects on our culture or lifestyle.

Let me point out one striking example of this: The Clean Air Act. Guam is faced with the prospect of paying over $20 million this year for sophisticated electronic scrubbers for our power-generating plants to keep down pollution in order to comply with the otherwise worthwhile law. Yet, unlike the States, the pollution from our power-generating smokestacks blows out to a sea that is empty for over 1,500 miles. The pollution bothers no one, yet all of the people of Guam may have to dig deeper into their pockets to pay for a device we do not need. Scrubbers are needed perhaps in the mainland but the law does not take into account the fact that island life and our environment is different.

I could cite other instances, but to do so would belabor the point: The territories do not seek to escape compliance with fair and just Federal laws; rather, we only ask that their impact on our way of life be considered before we are driven into bankruptcy and despair.

To help resolve this problem, I am today asking Congress to establish a commission which will examine the applicability or inapplicability of all Federal statutes to the territories. Its purpose mirrors that of a similar commission for the Commonwealth of the Northern Marianas which recently submitted a draft report to the Congress.

I initially proposed that we enter this review process in 1980. My bill (H.R. 7227) to create a Presidential commission for this purpose received administration support. Although it was not passed by the House prior to adjournment, the proposal was endorsed by the Senate.

In view of President Reagan's commitment to seek removal of burdensome and superfluous regulations, I am hopeful of obtaining administration support once again.

This was indicated during hearings last week before my Subcommittee on Insular Affairs, when the Assistant Secretary for Territorial and International Affairs recognized the need to remove unintentional restraints on territorial economies and improved application of Federal laws.

My legislation would accomplish this. I believe it merits expeditious approval. Thank you.

## PREVENT ELIMINATION OF JOBS FOR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing a concurrent resolution to express the sense of the Congress that funding appropriated for title V of the Older Americans Act, the Senior Community Service Employment project, should be maintained in future years at the level necessary to insure that its current 54,200 jobs and its other services are maintained or exceeded.

As you know, the administration in its proposed fiscal year 1983 budget has eliminated funding for title V entirely for future years. I am sure that I do not need to detail for any of my colleagues the tremendous benefits which this program has provided. Not only have 54,000 disadvantaged senior citizens across the Nation been provided with useful jobs to help supplement their incomes, but countless communities and individuals have benefited from the community service work provided by these workers. In addition, almost 100,000 seniors have benefited from job training and referrals provided through title V employment services for seniors. Needless to say, the Congress just passed a 3-year reauthorization bill extending all Older Americans Act programs, including title V, for 3 years.

Frankly, the administration's gutting of funding for title V is not only inhumane, but also is not cost effective. In fact, its proposal is but another example of shortsighted budgetary policy. Both through the assistance provided to communities through their work, and through the increased tax revenues provided through their paychecks, these workers actually save our Nation money.

In addition, of course, at a time when the social security system is in dire need of revenues, these workers are contributing to social security, rather than withdrawing full benefits from it.

Ultimately, however, the main concern regarding the administration's proposal rests in its direct impact on the senior citizens who benefit from the program. For many seniors, title V programs have meant the final hope for a self-sufficient and dignified existence, at an age when traditional employment opportunities shrink, and self-worth is hinged more and more to the desire to play a truly useful role in society. I am sure most of you, like myself, have received many letters from senior citizens in your own districts who directly or indirectly benefit from this program. At a time when we are asking so much of our Nation's disadvantaged, we should not eliminate

such a cost-effective and worthwhile program as title V.

I hope all my colleagues will consider joining with me in this resolution, to express their unyielding commitment to full funding for title V, and opposition to its elimination.

The following is the text of the resolution:

H. CON. RES. 278

Resolution expressing the sense of the Congress that funding for community service employment programs for senior citizens for fiscal year 1983 and subsequent fiscal years should be provided at levels sufficient to maintain or increase the number of employment positions provided under such programs

Whereas community service employment programs under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) currently provide employment for 54,200 senior citizens;

Whereas community service agencies and community residents are benefited by the valuable community service work of these senior citizens;

Whereas these benefits to community service agencies and community residents, and the income tax and social security revenues resulting from the employment of these senior citizens, make these community service employment programs cost effective;

Whereas the Congress, in enacting the Older Americans Act Amemdments of 1981 (Public Law 97-115; 95 Stat. 1595), clearly expressed its intent that funding for community service employment programs should at least be maintained at current levels;

Whereas these community service employment programs provide hope for a self-sufficient and dignified existence to senior citizens who otherwise would face shrinking employment opportunities; and

Whereas the Budget of the United States Government proposed by the President for fiscal year 1983 entirely eliminates funding for these community service employment programs: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress that funding for community service employment programs for senior citizens under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) for fiscal year 1983 and subsequent fiscal years should be provided at levels sufficient to maintain or increase the number of employment positions provided under such programs.●

## FMHA RESPONSIBILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, I am today, along with Congressman BYRON DORGAN, introducing a bill which would direct the Secretary of Agriculture to exercise his deferral responsibility to FmHA borrowers who are unable to make their loan payments. These are FmHA borrowers who, in the view of FmHA have shown good management practices but whose economic situation is due to circumstances beyond their control and who, if they made such payment would have their standard of living unduly impaired. The bill also directs that FmHA exercise its responsibility to notify all borrowers of the existence of various servicing remedies, including deferral of loan payments, and requires appeal procedures. This bill adds a new provision that this deferral responsibility apply to family size farms.

We are introducing this legislation even though it may not be legally necessary—there are pending lawsuits which make the very persuasive case that both the granting of deferrals under certain circumstances and the publicizing of servicing remedies are already part of FmHA's duties. According to a pending lawsuit in Georgia, FmHA is taking the position that it does not have the responsibility to grant deferrals even through it may find that the farmer's inability to pay is due to circumstances beyond his control and that if he did pay it would unduly impair his standard of living. FmHA is also taking the position in this case that it has no obligation to inform borrowers about the servicing remedies provided by the Agricultural Credit Adjustment Act of 1978. By this embarrassing position, FmHA is free to consider, or not consider, a borrower's deferral eligibility behind closed doors. The borrower not only will not be involved in any way, but he or she will not even necessarily know that the deferral relief exists. That is not what Congress intended by the 1978 law, and that is not what the Constitution intended under due process. Programs are not passed by Congress to be put in a desk drawer.

We want, with the introduction of this bill, to keep the momentum going which was generated by the recent Agriculture Subcommittee on Conservation, Credit, and Rural Development hearings regarding FmHA credit policies, and to let FmHA know that Congress expects them to do everything possible to keep those farmers in operation who are good managers and who are temporarily unable to make payments due to economic circumstances beyond their control. If we do not act now, if FmHA does not stop its subtle and not-so-subtle pressuring of farmers into liquidation—by acceleration notices, by suggestions that farmers sell off land and equipment, by refusing credit—we will not have a family farm system any more. There has been for years a trend toward bigger and bigger farms. In addition, the average age of farmers is 59. If you combine those facts with the current situation of large numbers of farmers leaving agriculture—many of them younger farmers—not only we will not have a family farm system anymore but we will not even have a sufficient number of qualified farmers. Farming is an extremely complex profession and we must plan for the future—we cannot turn out farmers with a 6-month training course as though they were computer operators.

I mentioned earlier in this statement that the House Agriculture Subcommittee on Conservation, Credit, and Rural Development recently held hearings on FmHA credit policies and programs. It was one of the more frustrating experiences of my congressional career to try to pull out of USDA officials the true story of how many farmers are being forced out of business. Someone who had attended the hearing wrote me and said he appreciated the diligence with which the subcommittee members tried to "piece together" what is happening to farmers across the Nation. "Piece together" is exactly what we are being forced to do because of lack of cooperation by USDA, and frankly, an unwillingness on the part of USDA to publicly acknowledge the serious situation facing farmers. Undersecretary of Agriculture Frank Naylor, in response to written questions by Chairman ED JONES again evaded the questions regarding numbers of delinquencies, voluntary and involuntary liquidations by providing only partial answers. You can be certain that I will not, and other Members of Congress who are interested in agriculture will not, stop in our efforts to get the total picture of what is happening to American farmers.

H.R. 5666

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 331A of the Consolidated Farm and Rural Development Act is amended by—

(1) inserting the designation "(a)" before the text thereof, striking out "section" and inserting in lieu thereof "subsection"; and

(2) adding at the end thereof a new subsection (b) as follows:

"(b) During the period beginning with the enactment of this subsection and ending September 30, 1983, the Secretary shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, and shall forgo foreclosure of any such loan upon a showing by the borrower that he or she has demonstrated good management practices and that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payment on such principal and interest then due without unduly impairing the standard or living of the borrower. The Secretary shall permit interest that would accrue during the deferral period on any loan deferred under this subsection to bear no interest during of after such period." *Provided,* That the above provision be limited to family-size farms as determined by the County Committees in accordance with Section 333(b) of this Act: *Provided further,*

That the Secretary shall adopt regulations which provide: (a) notification of all farm borrowers about the above deferral provisions and all other servicing alternatives offered by FmHA; (b) clear procedures by which borrowers can petition the Secretary for the above deferral provisions and all other servicing alternatives offered by FmHA; and (c) appeal of a decision which denies deferral or other servicing relief or refuses to forgo foreclosure.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LOWRY of Washington, for March 2 through March 9, on account of official business (at the request of Mr. WRIGHT).

Mr. OBEY (at the request of Mr. WRIGHT), for March 2 through March 9, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. GONZALEZ, for 1 hour, today.

(The following Members (at the request of Mr. PARRIS) to revise and extend their remarks and include extraneous material:)

Mr. DERWINSKI, for 5 minutes, today.

Mr. CORCORAN, for 60 minutes, today.

Mr. ROGERS, for 10 minutes, today.

(The following Members (at the request of Mr. SWIFT) to revise and extend their remarks and include extraneous material:)

Mr. FOGLIETTA, for 5 minutes, today.

Mr. HUTTO, for 14 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. BONER of Tennessee, for 10 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WON PAT, for 10 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. DASCHLE, for 5 minutes, today.

Ms. MIKULSKI, for 15 minutes on March 9.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEHMAN, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $3,388.

Mrs. SCHROEDER, today, on House Joint Resolution 3373.

(The following Members (at the request of Mr. PARRIS) and to include extraneous matter:)

Mr. WOLF.

Mr. ROUSSELOT.

Mr. MITCHELL of New York.

Mr. MOORHEAD in two instances.

Mr. DANIEL B. CRANE.

Mr. RUDD in two instances.

Mr. NELLIGAN in two instances.

Mr. LEE.

Mr. YOUNG of Florida in 10 instances.

Mr. DERWINSKI in two instances.

Mr. WHITEHURST.

Mr. LEBOUTILLIER.

Mr. LAGOMARSINO in two instances.

Mr. DOUGHERTY in two instances.

Mr. HILLIS.

Mr. PURSELL.

Mr. GINGRICH.

Mr. DORNAN of California in two instances.

Mr. GRISHAM.

Mr. DENARDIS in two instances.

Mr. MARLENEE.

Mr. SENSENBRENNER.

Mr. HILER.

Mr. COLLINS of Texas in three instances.

Mr. COURTER.

Mr. O'BRIEN in two instances.

Mr. EMERY.

Mr. THOMAS.

Mr. DAUB.

(The following Members (at the request of Mr. SWIFT of Washington), and to include extraneous matter:)

Mr. YATRON.

Mr. RATCHFORD.

Mr. VENTO in two instances.

Mr. SCHUMER in 10 instances.

Mr. STOKES.

Mr. MOFFETT in three instances.

Mr. DE LA GARZA in 10 instances.

Mr. LUNDINE in two instances.

Mr. BARNES.

Mr. KILDEE in two instances.

Mrs. CHISHOLM.

Mr. BRINKLEY.

Mr. FOLEY.

Mr. LOWRY of Washington.

Mr. ROSTENKOWSKI.

Mr. RAHALL in two instances.

Mr. LAFALCE.

Mr. HAMILTON.

Mr. BLANCHARD in two instances.

Mr. OBERSTAR.

Mr. MITCHELL of Maryland in two instances.

Mr. WALGREN.

Ms. FERRARO.

Mr. KASTENMEIER.

Mr. FAZIO.

Mr. FOGLIETTA.

Mr. MCDONALD.

Mr. LELAND.

Mr. WON PAT in two instances.

Mr. LONG of Maryland.

## SENATE BILL REFERRED

A bill of the Senate of the following titles was taken from the Speaker's table and, under the rule, referred as follows:

S. 1230. An act to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic games; to the Committee on Banking, Finance and Urban Affairs.

## ENROLLED BILL SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title which was thereupon signed by the Speaker:

H.R. 5021. An act to extend the date for the submission to the Congress of the report of the Commission on Wartime Relocation and Internment of Civilians.

## ADJOURNMENT

Mr. BONER of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 3, 1982, at 3 p.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3231. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. Readiness of the Air Force's proposed sale of certain defense equipment to Saudi Arabia (Transmittal No. 82-43) pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

3232. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Department of Defense's proposed sale of certain defense equipment to Korea (Transmittal No. 82-45), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

3233. A letter from the General Counsel, Department of Energy, transmitting a draft of proposed legislation to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983 and fiscal year 1984, and for other purposes; to the Committee on Armed Services.

3234. A letter from the General Counsel, Department of Energy, transmitting a draft of proposed legislation to authorize appropriations for conservation, exploration, development, production, sale, and use of naval petroleum reserves and naval oil shale reserves, for fiscal year 1983 and for fiscal year 1984, and for other purposes; to the Committee on Armed Services.

3235. A letter from the Secretary of Education, transmitting final regulations for the library career training program, pursuant to section 431(d) of the General Education Provisions Act as amended; to the Committee on Education and Labor.

3236. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting volumes one and three of the annual report of the Energy Information Administration, covering calendar year 1981, pursuant to section 57(a)(2) of the Federal Energy Administration Act, as amended; to the Committee on Energy and Commerce.

3237. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention

to offer to sell certain defense equipment to Saudi Arabia (Transmittal No. 82-43), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3238. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports of political contributions, pursuant to section 304(b-2) of Public Law 96-465; to the Committee on Foreign Affairs.

3239. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during January 1982, pursuant to section 234 of the legislative Reorganization Act of 1970, as amended; to the Committee on Government Operations.

3240. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3241. A letter from the Director of ACTION, transmitting a report on the agency's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3242. A letter from the Chairman, National Endowment for the Humanities, transmitting a report on the Endowment's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3243. A letter from the Executive Director, Upper Mississippi River Basin Commission, transmitting a the preliminary comprehensive master plan for the management of the Upper Mississippir River System, pursuant to section 101(a) of Public Law 95-502; to the Committee on Public Works and Transportation.

3244. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Secretary of Commerce to plan and provide for the management and operation of a civil land remote sensing satellite system, and for other purposes; to the Committee on Science and Technology.

3245. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend title 5, United States Code, to limit eligibility for unemployment compensation for ex-servicemembers, and for other purposes; to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZEFERETTI: Select Committee on Narcotics Abuse and Control, 97th Congress, 1st session. Annual report, part II, "Recommendations For a Comprehensive Program to Control the Worldwide Problem of Drug Abuse" (Rept. No. 97-418, Pt. II). Referred to the Committee of the Whole House on the State of Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. Oversight report on the Magnuson Fishery Conservation and Management Act of 1976 (Rept. No. 97-438). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 634 An act to authorize the exchange of certain lands in Idaho and Wyoming; with amendments (Rept. No. 97-439). Referred to the Committee of the Whole House on the State of the Union.

## SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5, rule X, the following action was taken by the Speaker:

Referral of H.R. 4326 to the Committees on Armed Services, Energy and Commerce, Science and Technology, and Veterans' Affairs extended for an additional period ending not later than March 16, 1982; and H.R. 4326 sequentially referred to the Committee on Foreign Affairs and to the permanent Select Committee on Intelligence for a period ending not later than March 16, 1982, for consideration of such portions of the bill and amendment as fall within the jurisdiction of those committees under clause 1(i), rule XI and clause 2, rule XLVIII respectively.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 5657. A bill to amend the Tennessee Valley Authority Act; to the Committee on Public Works and Transportation.

By Mr. BENNETT:

H.R. 5658. A bill to provide Federal grants to assist elementary and secondary schools to carry on programs to teach the principles of citizenship; to the Committee on Education and Labor.

By Mr. BOLAND (for himself, Mr. MINETA, Mr. CONTE, Mr. HOWARD, Mr. FARY, and Mr. LEVITAS):

H.R. 5659. A bill to authorize the Smithsonian Institution to construct a building for the Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington: to the Committee on Public Works and Transportation.

By Mr. BENNETT:

H.R. 5660. A bill to direct the Secretary of the Army to set aside an appropriate area within the Arlington National Cemetery for the burial of cremated remains: to the Committee on Veterans' Affairs.

By Mr. BREAUX (for himself and Mr. FORSYTHE):

H.R. 5661. A bill to authorize appropriations to carry out fishery conservation and management during fiscal year 1983; to the Committee on Merchant Marine and Fisheries.

H.R. 5662. A bill to extend until October 1, 1983, the authority and authorization of appropriations for certain programs under the Fish and Wildlife Act of 1956; to the Committee on Merchant Marine and Fisheries.

H.R. 5663. A bill to authorize appropriations to carry out the Anadromous Fish Conservation Act during fiscal year 1983; to the Committee on Merchant Marine and Fisheries.

By Mrs. CHISHOLM (for herself, Mr. WEAVER, and Mr. MOFFETT):

H.R. 5664. A bill to provide that, for a 10-year period, certain Federal land in the Black Hills National Forest shall be withdrawn from public use in order that the Lakota-Dakota (Sioux) Nation may use such land as a cultural and religious resource area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CORCORAN:

H.R. 5665. A bill to provide for the establishment of the Illinois and Michigan Canal National Heritage Corridor, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DASCHLE (for himself and Mr. DORGAN of North Dakota):

H.R. 5666. A bill to amend section 331A of the Consolidated Farm and Rural Development Act to defer payment of principal and interest of loans; to the Committee on Agriculture.

By Mr. DINGELL (for himself and Mr. HILLIS):

H.R. 5667. A bill to impose quotas on the importation of automobiles; to the Committee on Ways and Means.

By Mr. EMERY:

H.R. 5668. A bill to amend title 38 of the United States Code to make independent entities eligible to receive funds under the disabled veterans' outreach program and to allow the Secretary of Labor to station disabled veterans' outreach program specialists at various locations; to the Committee on Veterans' Affairs.

By Mr. FLORIO:

H.R. 5669. A bill to amend section 112 of the Clean Air Act relating to hazardous air pollutants, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HUGHES:

H.R. 5670. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals who have attained age 65 or who are disabled a refundable tax credit for property taxes paid by them on their principal residences or for a certain portion of the rent they pay on their principal residences; to the Committee on Ways and Means.

By Mr. KILDEE:

H.R. 5671. A bill to designate certain public lands in the State of Michigan as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOORE:

H.R. 5672. A bill to terminate the coverage of employees of Livingston Parish, La., under the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. MONTGOMERY (by request):

H.R. 5673. A bill to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MOTTL:

H.R. 5674. A bill to prohibit the U.S. Government from entering into, licensing, or otherwise approving any coproduction, licensed production, or other agreement involving the manufacture outside the United States of any U.S. origin defense articles unless the Congress expressly approves that agreement; to the Committee on Foreign Affairs.

By Mr. O'BRIEN:

H.R. 5675. A bill to amend section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 to extend from May 1982 to October 1982 the month before which children not otherwise entitled to child's insurance benefits under title II of the Social Security Act must attend postsecondary schools in order to qualify under such section 2210(c) for entitlement to such benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. O'BRIEN (for himself and Mr. EMERSON):

H.R. 5676. A bill to authorize, on an emergency basis, the Government National Mortgage Association to provide assistance with respect to certain mortgages secured by newly constructed homes, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PANETTA:

H.R. 5677. A bill to amend the Internal Revenue Code of 1954 to treat as employees, for purposes of withholding and social security taxes, certain fishermen who comprise the operating crew of a boat if the operating crew normally consists of more than five individuals; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 5678. A bill to grant a Federal charter to the 369th Veterans' Association; to the Committee on the Judiciary.

By Mr. SENSENBRENNER (for himself, Mr. KINDNESS, and Mr. MCCOLLUM):

H.R. 5679. A bill to revise title 18 of the United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. ROGERS:

H.R. 5680. A bill to amend the Emergency Agricultural Credit Adjustment Act of 1978 to require the Secretary of Agriculture to insure or guarantee loans having an aggregate principal balance equal to the maximum amount authorized in such act; to the Committee on Agriculture.

By Mr. ST GERMAIN:

H.R. 5681. A bill to amend the Internal Revenue Code of 1954 to deny depreciation deductions with respect to imported highway motor vehicles; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 5682. A bill to amend the Internal Revenue Code of 1954 to encourage increases in productivity by special tax treatment for certain employee bonuses which are determined on the basis of profits or cost savings; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5683. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of business development companies; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 5684. A bill to amend title II of the Social Security Act to provide that no determination that an individual's disability has ceased may take effect until such individual has been notified thereof, to extend the transition period during which disability insurance benefits remain payable after a disability ends, and to permit the continued payment of disability insurance benefits while the recipient of such benefits is appealing a determination that he is no longer entitled thereto; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 5685. A bill to change the effective date for compensation for Members of Congress; to the Committee on Post Office and Civil Service.

By Mr. VOLKMER (for himself and Mr. CLAY):

H.R. 5686. A bill to designate certain lands in the Mark Twain National Forest, Mo., which comprise about 17,562 acres, and known as the Irish Wilderness, as a component of the national wilderness preservation system; to the Committee on Interior and Insular Affairs.

By Mr. WOLPE (for himself, Mr. BRODHEAD, Mr. FAZIO, Mr. YOUNG of Alaska, Mr. FORD of Michigan, Mr. ROBERTS of South Dakota, Mr. DELLUMS, Mr. FAUNTROY, Mr. BONIOR of Michigan, Mr. PEPPER, Mr. STARK, Mr. ATKINSON, Mr. NAPIER, Mr. ALBOSTA, Mr. CORCORAN, Mr. LOWRY of Washington, Mr. HORTON, Mr. OTTINGER, Mr. DONNELLY, Mr. FORSYTHE, Mrs. CHISHOLM, Mr. JONES of North Carolina, Mr. WHITEHURST, Mr. MITCHELL of Maryland, Mr. EVANS of Georgia, Mr. GRAMM, Mr. DE LA GARZA, Mr. MITCHELL of New York, Mr. DOWNEY, Mr. MARKEY, Mr. SMITH of Pennsylvania, and Mr. PATTERSON):

H.R. 5687. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are permitted to travel on such aircraft; to the Committee on Armed Services.

By Mr. WON PAT:

H.R. 5688. A bill to establish a Commission on Federal laws to study the application of the laws of the United States to Guam, the Virgin Islands, and American Samoa; to the Committee on Interior and Insular Affairs.

By Mr. FISH (for himself, Mr. BUTLER, Mr. CHENEY, Mr. CLINGER, Mr. COUGHLIN, Mr. JAMES K. COYNE, Mrs. FENWICK, Mr. FRENZEL, Mr. GRADISON, Mr. HILLIS, Mr. HORTON, Mr. HYDE, Mr. JEFFORDS, Mr. LIVINGSTON, Mr. LUNGREN, Mr. MCKINNEY, Mr. MCCLORY, Mr. MCDADE, Mr. PETRI, Mr. PRITCHARD, Mr. REGULA, Mr. RAILSBACK, Mr. STANTON, and Mr. WHITEHURST):

H.R. 5689. A bill to provide for the civil rights of individuals within the jurisdiction of the United States; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. STARK:

H.R. 5690. A bill to amend the Trade Act of 1974 to establish a service industries development program in the Office of the U.S. Trade Representative; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. VENTO:

H.R. 5691. A bill to amend the act of September 3, 1964 (78 Stat. 987) and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. DOUGHERTY:

H.J. Res. 417. Joint resolution to authorize and request the President to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. YATES (for himself, Mr. OBERSTAR, Mr. REUSS, Mr. CLAY, Mr. PERKINS, Mr. DICKS, Mr. MURPHY, Mr. MOFFETT, Mr. FOGLIETTA, Mr. FAUNTROY, Mr. VENTO, Mr. RODINO, Mr. BOLAND, Mr. DE LA GARZA, Mr. FRANK, Mr. MITCHELL of Maryland, Mr. BARNES, Mr. APPLEGATE, Mr. BEILENSON, Mr. OTTINGER, and Mr. CORRADA):

H.J. Res. 418. Joint resolution making an urgent supplemental appropriation for the Department of Health and Human Services for the fiscal year ending September 30, 1982; to the Committee on Appropriations.

By Mr. PANETTA:

H. Con. Res. 278. Concurrent resolution expressing the sense of the Congress that funding for community service employment programs for senior citizens for fiscal year 1983 and subsequent fiscal years should be provided at levels sufficient to maintain or increase the number of employment positions provided under such programs; to the Committee on Education and Labor.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON:

H.R. 5692. A bill for the relief of Jerry Plotkin; to the Committee on the Judiciary.

By Mr. HUGHES:

H.R. 5693. A bill for the relief of Dr. Roy E. Reichenbach; to the Committee on the Judiciary.

By Mr. ROGERS:

H.R. 5694. A bill for the relief of Roy A. Redmond, Jr.; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 5695. A bill for the relief of Modesto Lopez Briones; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. GINGRICH and Mr. HANCE.
H.R. 401: Mr. LOWRY of Washington.
H.R. 556: Mr. JAMES K. COYNE.
H.R. 756: Mr. PHILLIP BURTON.
H.R. 757: Mr. PHILLIP BURTON.
H.R. 1508: Mr. HENDON.
H.R. 1918: Mr. EARLY, Mr. SANTINI, Mr. AKAKA, Mr. WHITEHURST, Mr. WATKINS, Mr. MILLER of Ohio, Mr. ATKINSON, and Mrs. KENNELLY.
H.R. 2034: Mr. CAMPBELL, Mr. MARLENEE, Mr. MOORHEAD, Mr. SNYDER, Mr. ADDABBO, Mr. KOGOVSEK, and Mr. GINN.
H.R. 2251: Mr. NEAL.
H.R. 3048: Mr. BARNES.
H.R. 3220: Mrs. MARTIN of Illinois.
H.R. 3300: Mr. WEAVER and Mr. CAMPBELL.
H.R. 3632: Mr. RATCHFORD, Mr. SAVAGE, Mr. KASTENMEIER, Mr. HILER, and Mr. BLANCHARD.
H.R. 3722: Mr. BADHAM, Mr. FLIPPO, Mr. WILLIAMS of Ohio, Mr. SHAW, Mr. MORRISON, Mrs. ROUKEMA, Mr. WAMPLER, Mr. TRIBLE, Mr. DYSON, Mr. MARLENEE, Mr. NEAL, Mr. DANNEMEYER, Mr. HANCE, Mr. NATCHER, Mr. FOGLIETTA, Mr. DICKINSON, Mr. FOLEY, Mr. WHITLEY, Mr. BENNETT, Mr. RALPH M. HALL, Mr. AKAKA, Mr. HENDON, Mr. DERRICK, Mr. HEFNER, Mr. PICKLE, Mr. OXLEY, Mr. JONES of North Carolina, Mr. ROSE, and Mr. BEARD.
H.R. 3824: Mr. VANDER JAGT.
H.R. 3988: Mr. BENEDICT.

H.R. 4091: Mr. MILLER of Ohio and Mr. STUDDS.

H.R. 4147: Mr. MOFFETT and Mr. APPLEGATE.

H.R. 4227: Mr. MOTTL, Ms. FERRARO, Mr. FAUNTROY, Mrs. COLLINS of Illinois, Mr. LEHMAN, Ms. MIKULSKI, Mr. HUTTO, Mr. HEFTEL, Mr. WIRTH, Mrs. MARTIN of Illinois, Mr. MARKS, Mr. ZEFFERETTI, and Mr. SCHUMER.

H.R. 4340: Mr. LATTA.

H.R. 4391: Mr. STOKES and Mr. SEIBERLING.

H.R. 4449: Mr. ROBINSON.

H.R. 4450: Mr. JAMES K. COYNE, Mr. BAILEY of Pennsylvania, Mr. GARCIA, Mr. GIBBONS, Mr. HORTON, Mr. LOWRY of Washington, Mr. MINISH, Mr. MORRISON, Mr. RAHALL, Mr. RINALDO, Mr. SCHUMER, and Mr. WON PAT.

H.R. 4460: Mr. FLORIO and Mr. MOTTL.

H.R. 4535: Mr. DOWNEY and Mr. JOHN L. BURTON.

H.R. 4708: Mr. MCDADE, Mr. NELLIGAN, Mr. O'BRIEN, Mrs. BYRON, and Mr. PATTERSON.

H.R. 4751: Mr. DUNCAN, Mr. LUJAN, Mr. KINDNESS, Mr. HATCHER, Mr. HAMMERSCHMIDT, Mr. GINGRICH, Mr. JEFFRIES, Mr. WORTLEY, Mr. RAHALL, Mr. SANTINI, Mr. MURPHY, Mr. MCCLORY, Mr. FROST, Mr. SMITH of Pennsylvania, Mr. CRAIG, Mr. BENEDICT, Mr. GIBBONS, Mr. SMITH of Oregon, Mr. ENGLISH, and Mr. MOTTL.

H.R. 4786: Mrs. FENWICK, Mr. YOUNG of Missouri, Mrs. SMITH of Nebraska, Mr. WHITE, Mr. JONES of Tennessee, Mr. BAFALIS, Mr. COUGHLIN, Mr. HAGEDORN, Mr. BEREUTER, and Mr. JEFFORDS.

H.R. 4835: Mr. LEVITAS, Mr. WASHINGTON, Mr. ENGLISH, Mr. BARNARD, Mr. NEAL, Mr. MOFFETT, Mr. CONYERS, Mr. MCGRATH, Mr. WEAVER, and Mr. PEYSER.

H.R. 4868: Mr. JENKINS.

H.R. 4929: Mr. CLAY.

H.R. 4974: Mr. PEYSER.

H.R. 4996: Mr. JOHNSTON, Mr. HARTNETT, Mr. GIBBONS, Mr. WILSON, Mr. SMITH of Pennsylvania, and Mr. ENGLISH.

H.R. 4997: Mr. HOWARD.

H.R. 5004: Mr. VANDER JAGT.

H.R. 5022: Mrs. CHISHOLM, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. DYMALLY, Mr. EDGAR, Mr. EVANS of Georgia, Mr. FAZIO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. HATCHER, Mr. KOGOVSEK, Mr. LUKEN, Mr. RANGEL, Mr. RATCHFORD, Mr. SAVAGE, Mr. SHUMWAY, Mr. SKEEN, Mr. STOKES, and Mr. WYDEN.

H.R. 5055: Mr. TAYLOR, Mr. STANGELAND, Mr. COATS, and Mr. MURTHA.

H.R. 5060: Mr. PRICE.

H.R. 5104: Mr. MCDADE, Mr. FASCELL, and Mr. MARKS.

H.R. 5117: Mr. GOLDWATER.

H.R. 5146: Mr. WEAVER, Mr. SIMON, and Mr. KILDEE.

H.R. 5147: Mr. WHITTAKER.

H.R. 5150: Mr. KRAMER and Mr. HOPKINS.

H.R. 5176: Mr. SPENCE, Mr. NEAL, Mr. FOGLIETTA, Mr. BROOKS, and Mr. WOLF.

H.R. 5180: Mr. JOHN L. BURTON, Mr. HOYER, Mr. DELLUMS, Mr. DOWNEY, Mr. FRANK, Mr. LANTOS, Ms. OAKAR, Mr. WEBER of Ohio, Mr. STANTON of Ohio, Mr. MORRISON, Mr. HAGEDORN, Mr. DANIEL B. CRANE, Mr. RICHMOND, Mr. MOLINARI, Mr. BOLAND, Mr. LEE, Mr. MOTTL, Mr. SHAW, Mr. SHELBY, and Mr. BROWN of California.

H.R. 5200: Mr. BAFALIS, Mr. MOLINARI, Mr. MONTGOMERY, and Mr. MOTTL.

H.R. 5211: Mr. HAGEDORN, Mr. LAGOMARSINO, Mr. GINGRICH, Mr. FORSYTHE, Mr. TAUKE, and Mrs. COLLINS of Illinois.

H.R. 5357: Mr. AKAKA and Mr. GIBBONS.

H.R. 5364: Mr. SKEEN, Mr. FRANK, and Mr. CHAPPIE.

H.R. 5421: Mr. MARKEY.

H.R. 5446: Mr. LOWRY of Washington.

H.R. 5469: Mr. MOTTL and Mr. MCKINNEY.

H.R. 5481: Mr. BINGHAM, Mr. BROWN of California, Mr. BUTLER, Mr. CLINGER, Mr. CORCORAN, Mr. FISH, Mr. FOGLIETTA, Mr. FORSYTHE, Mr. GINGRICH, Mr. KILDEE, and Mr. ROE.

H.R. 5567: Mr. STANTON of Ohio, Mr. HORTON, Mr. STARK, Mr. DYSON, Mr. SAWYER, Mrs. FENWICK, and Mr. GOLDWATER.

H.J. Res. 90: Mr. FIELDS.

H.J. Res. 96: Mr. NELSON.

H.J. Res. 272: Ms. FIEDLER, Mr. BROOKS, Mr. ROUSSELOT, Mr. LEBOUTILLIER, and Mr. SAWYER.

H.J. Res. 340: Mr. COELHO, Mr. FOGLIETTA, Mr. NEAL, Ms. FERRARO, Mr. GARCIA, and Mr. KOGOVSEK.

H.J. Res. 373: Mr. GREEN, Mr. SILJANDER, Mr. ROE, Mr. FAZIO, Mr. SEIBERLING, Mr. WILLIAMS of Montana, Mr. MOLINARI, Mr. JEFFORDS, Mr. BLILEY, Mr. FITHIAN, Mr. JACOBS, Mr. DE LUGO, and Mr. CORCORAN.

H.J. Res. 375: Mr. FISH, Mr. ROUSSELOT, Mr. WHITEHURST, Mr. DUNCAN, Mr. OXLEY, Mr. JOHN L. BURTON, Mr. ROSENTHAL, Mr. ST GERMAIN, Mr. DERWINSKI, Mr. TAUKE, Ms. OAKAR, Mr. KEMP, Mr. ERDAHL, Mr. CLAUSEN, Mr. MILLER of California, Mr. MURTHA, Mr. LANTOS, Mr. BRODHEAD, Mr. ROBINSON, Mr. STRATTON, Mr. EMERSON, Mr. PORTER, Mr. GRAY, Mr. HALL of Ohio, Mr. CORRADA, Mr. DOWDY, Mr. DE LA GARZA, Mr. LOTT, Mr. ENGLISH, Mr. LONG of Maryland, Mrs. BOUQUARD, Mr. SKELTON, Mr. BIAGGI, Mrs. BYRON, Mr. SCHEUER, Mr. SUNIA, Mr. BROWN of Ohio, Mr. MCEWEN, Mr. ANTHONY, Mr. GRADISON, Mr. LAGOMARSINO, Mr. ANNUNZIO, Mr. SIMON, Mr. BOWEN, Mr. PEPPER, Mr. FLORIO, Mr. WASHINGTON, Ms. FERRARO, Mrs. SNOWE, Mr. HERTEL, Mr. DICKS, Mr. MCCURDY, Mr. MICA, Mr. MONTGOMERY, Mr. HANCE, Mr. MURPHY, Mr. PETRI, Mr. TAYLOR, Mr. HENDON, Mr. MCKINNEY, Mr. FOUNTAIN, Mr. JENKINS, Mr. CONABLE, Mr. HOYER, Mr. GUNDERSON, and Mr. SOLARZ.

H.J. Res. 385: Mr. WOLF, Mr. WALGREN, Mr. SMITH of New Jersey, Mr. WILLIAMS of Ohio, Mr. BENEDICT, Mr. COELHO, Mr. WOLPE, Mr. LANTOS, Mr. SMITH of Pennsylvania, Mr. MCCOLLUM, Mr. MOORHEAD, Mr. HYDE, Mr. GILMAN, Mr. ROE, Mr. MOORE, Mr. SHARP, Mr. SMITH of Oregon, Mr. GRISHAM, Mr. FROST, Mr. JAMES K. COYNE, Mr. OBEY, Mr. SILJANDER, Mr. COURTER, Mr. MCDADE, Mr. FASCELL, Mr. BETHUNE, Mr. BARNARD, Mr. KILDEE, Mr. WALGREN, Mr. BAILEY of Pennsylvania, Mr. FRANK, Mr. KOGOVSEK, Mr. YATRON, Mr. MCEWAN, and Mr. BONER of Tennessee.

H.J. Res. 404: Mr. BRINKLEY, Mr. DANIEL B. CRANE, and Mr. DECKARD.

H.J. Res. 416: Mr. SCHEUER, Mr. FOGLIETTA, Mr. YOUNG of Missouri, Mr. EDGAR, Mr. FROST, Mr. DYSON, Mr. SYNDER, Mr. EVANS of Delaware, Mrs. CHISHOLM, and Mr. LAGOMARSINO.

H. Con. Res. 77: Mr. RINALDO, Mr. WILLIAM J. COYNE, Mr. ATKINSON, Mr. ST GERMAIN, Mr. FOGLIETTA, Mr. STRATTON, Mr. ECKART, Mr. HOYER, Mr. SCHUMER, Mr. NELLIGAN, Mr. WEAVER, and Mr. SKELTON.

H. Con. Res. 151: Mr. GREEN, Mr. GOODLING, and Mr. STARK.

H. Con. Res. 159: Mr. DANNEMEYER, Mr. GRISHAM, Mr. PARRIS, Mr. GILMAN, Mr. MCGRATH, Mr. MURTHA, Ms. MIKULSKI, Mr. WORTLEY, Mr. WILSON, Mr. CONTE, and Mr. MOTTL.

H. Con. Res. 216: Mr. FORD of Tennessee, Mr. RINALDO, Mr. HOWARD, Mr. EVANS of Georgia, Mr. DASCHLE, Mr. STOKES, Mr. ROTH, Mr. YOUNG of Missouri, Mr. MINISH, Mr. AUCOIN, Ms. FIEDLER, and Mr. WEAVER.

H. Con. Res. 226: Mr. WEAVER.

H. Con. Res. 259: Mr. BAILEY of Pennsylvania, Mr. BEDELL, Mr. DONNELLY, Mr. HORTON, Mr. JEFFRIES, Mr. JONES of North Carolina, Mr. KOGOVSEK, Mr. LAFALCE, Mr. LUKEN, Mr. MARLENEE, Mr. PEPPER, Mr. RATCHFORD, Mr. ROUSSELOT, Mr. SENSENBRENNER, Mr. SMITH of Pennsylvania, Mr. VENTO, and Mr. WEBER of Ohio.

H. Res. 243: Mr. GUNDERSON.

H. Res. 284: Mr. HOYER, and Mr. WEAVER.

H. Res. 348: Mr. WORTLEY, Mr. FORSYTHE, Mr. MITCHELL of Maryland, Mr. FAUNTROY, Mr. SMITH of Pennsylvania, Mr. VENTO, Mr. FORD of Tennessee, Mr. DOWNEY, and Mr. ROE.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3269: Mr. RICHMOND.

# SENATE—*Tuesday, March 2, 1982*

*(Legislative day of Monday, February 22, 1982)*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable THAD COCHRAN, a Senator from the State of Mississippi.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Gracious, loving, heavenly Father, the next few months promise difficult days for the Senators and their dedicated associates. But no one came to the Senate seeking an easy task and they are prepared for the hard work and tough issues confronting them. Grant that the intensity of debate, the demanding decisions from within and the pressures of press and public from without will not be allowed to erode and weaken respect, honor, and unity.

We thank Thee for diversity which is of the very essence of unity. We thank Thee for the truth which emerges from the conflict of ideas. We thank Thee for the common purpose to which all are committed. Help us to see that love is stronger than any other force in history; that it is irresistable. Let love triumph here—love for God, for family, for peers, for all who serve in the Senate; love for country. Indeed, in obedience to Christ, love even for those who abuse us. Let the unconditional, unalterable, undiminished, unending love of God fill our hearts. We pray this in the name of Him who was Incarnate Love. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., March 2, 1982.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THAD COCHRAN, a Senator from the State of Mississippi, to perform the duties of the Chair.

STROM THURMOND,
*President pro tempore.*

Mr. COCHRAN thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

## THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, is it not correct that there is an order for the recognition of the distinguished minority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), on a special order, to follow the execution of the time allocated to the two leaders under the standing order?

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senator from West Virginia will be recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, after the expiration of the times under the standing order and the time under the special order, if any time remains, there will be a brief period for the transaction of routine morning business.

If any time remains after the expiration of these times, prior to 9:30 a.m., I ask unanimous consent that that time be added to the transaction of routine morning business, in which Senators may speak for not more than 1 minute each, and that at 9:30 a.m., morning business end, and that under the previous order, the Senate resume consideration of S. 951, as previously ordered.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

## SCHEDULE FOR TODAY

Mr. BAKER. Mr. President, under the previous order, at 9:30 a.m., the Senate will resume consideration of S. 951. Thereafter, not more than 2 hours of debate will ensue on the Johnston amendment No. 1252, with a vote thereon, to be followed by a vote on the Heflin amendment No. 1235, to be followed immediately by third reading and final passage.

It is the intention of the leadership to ask the Senate to recess from 12 noon to 2 o'clock, assuming that other and urgent business is not before the Senate at that time which requires it to act otherwise, in order to permit Senators to attend official functions on both sides of the aisle, off the floor of the Senate.

I announced yesterday that at 2 o'clock today it was my hope that we could go into executive session for the purpose of considering the nomination of James Daniel Theberge to be Ambassador to Chile.

I inquire of the minority leader if he is in a position at this time to agree to such a request were one propounded?

Mr. ROBERT C. BYRD. Mr. President, that request would be agreeable on this side of the aisle.

Mr. BAKER. I thank the minority leader.

I have been handed a unanimous-consent request in respect to the nomination, which I believe has been submitted to the distinguished minority leader. I will state it at this time for his consideration and the consideration of the Senate.

### UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF JAMES D. THEBERGE

Mr. BAKER. Mr. President, as in executive session, I ask unanimous consent that today, at 2 p.m., the Senate go into executive session to consider the nomination of James Daniel Theberge, to be U.S. Ambassador to Chile, and it be considered under the following time agreement: 15 minutes equally divided between the chairman of the Foreign Relations Committee and the ranking member or their designees; 30 minutes under the control of the Senator from Massachusetts (Mr. KENNEDY); 10 minutes under the control of the Senator from North Carolina (Mr. HELMS).

And that following the conclusion of the time allotted or the yielding back of time, the Senate proceed to a roll-call vote on the confirmation of James Daniel Theberge.

Further, I ask unanimous consent that it be in order now to order the yeas and nays on the confirmation of James Daniel Theberge.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

RESOLUTION REGARDING MARTIAL LAW IN POLAND

Mr. BAKER. Mr. President, there are two other items that I mentioned last evening, before the Senate recessed, to which I hope we can proceed.

I inquire of the minority leader if he has had an opportunity to address the possibility of taking up the resolution on Poland, to be offered by the distinguished Senator from Pennsylvania (Mr. HEINZ), and the conference report on S. 1503, the Standby Petroleum Allocation Act.

Mr. ROBERT C. BYRD. Mr. President, this side is prepared to proceed in accordance with the majority leader's request in connection with the Poland measure.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that when the Senate returns to legislative session after considering the President's nominee to be his Ambassador to Chile, the Senate then take up an unprinted resolution, to be offered by the distinguished Senator from Pennsylvania (Mr. HEINZ), for himself and others, in respect to the imposition of martial law in Poland and the release of Lech Walesa.

I do not anticipate any extensive debate on that matter. I am advised that perhaps 10 minutes of discussion will dispose of the issue. I do not include that time limitation in this request but, rather, that it be sequenced in accordance with the request I have now put.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STANDBY PETROLEUM ALLOCATION ACT

Mr. BAKER. Mr. President, in respect to the conference report on S. 1503, the Standby Petroleum Allocation Act, on which the Senate will act first, it appears to me, based on consultations on the floor on my own side—I say to the minority leader—that we may not yet have our ducks in a row on time limitation, so I will not put a request at this time in respect to that conference report.

Instead, I will instruct staff to inquire of Senators for their time requirements on this side, and I will be prepared later in the day to consult with the minority leader once again on a time limitation and a sequence for the consideration of that privileged matter.

It is my hope that we can take up the conference report on standby petroleum allocation this afternoon, perhaps to follow on immediately after the disposition of the resolution on Poland.

## PROCEDURE TOMORROW ON RESOLUTION RELATING TO SENATOR WILLIAMS

Mr. BAKER. Mr. President, before I yield the floor, may I say that on tomorrow the Senate will begin consideration of the resolution reported by the Ethics Committee in respects to Senator HARRISON A. WILLIAMS, JR., of New Jersey.

I will not burden the time of the Senate at this point to repeat the admonitions that I expressed earlier and the urgent request that I had lodged previously that Members arrange their schedules in order to be in the Chamber for every moment of that debate.

I have sent a memorandum on more than one occasion to Members on this side of the aisle, and I am informed that the minority leader may perhaps have sent a similar memorandum.

The distinguished whips on both sides of the aisle have indicated that the matter would require the attention of Senators and objections would be lodged to committees meeting beyond the first 2 hours of the session of the Senate.

Mr. President, I have asked the Sergeant at Arms of the Senate to take extraordinary measures to assure that Members are notified that the joint leadership, if I may presume to say so, requests that all Members not only be in attendance in the Chamber to answer quorum calls and to hear the debate but that they remain in the Chamber.

So Members should not be surprised if they find representatives of the Sergeant at Arms stationed at each door to remind Members that their duty is here.

I recall vividly the procedure followed by our recent colleague, Senator Mansfield, now Ambassador Mansfield, in another and somewhat similar situation. I commend that portion of the RECORD to all Members for guidance on how this proceeding will be conducted.

It is my intention to the extent that I can do so to assure that Senator WILLIAMS has the benefit of the undivided attention and careful consideration and judgment of every Member of this Senate at every moment of this debate.

I do not mean that to sound harsh or preemptory, but there are few matters that are more personal and sensitive than consideration of a resolution is respect to the status of a colleague in the Senate.

Therefore, once again I urge Members, indeed I even presume to insist that Members attend these sessions, that they listen, that they remain in the Chamber, and those who do not should not be surprised to find that live quorums will be called for in order to try to assure the attendance of the entire Senate for the consideration of this sensitive matter.

I apologize to my colleagues for the preemptory tone of these remarks, but I feel a heavy duty to the Senate and a special responsibility in respect to Senator WILLIAMS. Therefore, I feel obligated to make these remarks at this time in this manner.

Mr. President, I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Democratic leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

## SENATE RESOLUTION 329—EXPRESSING SENSE OF THE SENATE THAT NO CUTS BE MADE IN HOUSING PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, I am today introducing a resolution which expresses the sense of the Senate that no cuts should be made in housing programs.

The housing industry is in a state of depression and such a state has not been seen since World War II. In 1981, there were fewer housing starts than at any time since 1946, falling below 1.1 million for the first time in 35 years.

Sales of new, single family homes were at their lowest levels on record during 1981.

And the new year has not brought new life to housing. Housing starts in January were below December's levels, and 44 percent below the year earlier levels. This continued depression was reflected in the January unemployment rate for construction workers, which was 18.7 percent, more than double the national average.

This depression concerns not only builders and real estate brokers. Every American has a stake in the future of our housing industry. During the next decade 41 million Americans will turn 30 and begin looking for their first home.

However, unless we increase the supply and affordability of housing most young people will never get the chance to make the great American dream come true. There are no longer enough houses being built to fill the needs of our citizens. During 1981 there were only 4.7 housing starts for every 1,000 people. This is the lowest rate since 1945 and compares to a start rate of 8.3 houses per 1,000 during the 1970's.

So millions of young couples may not be able to find a house in the next few years. But even if they could find one, most people could not afford it.

In 1975, the median priced house sold for $39,000, and with a standard 9 percent mortgage, families paid $333 a month. About 22 percent of American families could qualify for home purchases under that arrangement.

Today, the picture is dramatically different. In 1982, with interest rates hovering near 18 percent less than 5 percent of American families can afford a median priced home. A $60,000 loan at 18 percent interest requires monthly payments of $904 over 30 years and that means a family must make more than $50,000 a year to qualify for the loan.

I will remind my colleagues that the median income in America is only $21,000. This is 42 percent of the necessary annual salary for these loans.

But young couples are not the only ones who are hurt by high interest rates and depressed housing markets. American homeowners are currently losing money on their housing investment, for the first time in post-war history.

Most Americans cannot afford to invest in the high-flying world of stocks, municipal bonds, and capital investments. For them, a house is their single major investment. It is their retirement security. It is one piece of the world that is truly their own. Now, they can only watch as the value of their investment erodes.

This is no time to even consider ending Government support for housing. This is no time to abandon our homeowners and our young couples who hope to become homeowners.

Yet, the administration's 1983 budget ends housing support. In fact, Government participation in housing drops from $21 billion to negative $2.5 billion, because the administration wants to reach back to prior year authorizations and cancel them. The administration's message is loud and clear. They do not care about the plight of housing. They do not care about the plight of the American homeowner. They do not care about the plight of young couples who want to buy their first home.

Mr. President, the Senate should make it clear that we do care about housing. The administration's 112-percent cut in housing programs must be rejected, and it must be rejected now.

Among its other plans, the administration wants to drastically reduce support for the Ginnie Mae program.

The Ginnie Mae cuts, and planned termination of this program in the outyears, must be rejected since without Ginnie Mae, the FHA and VA programs would be crippled or destroyed. Almost three-fourths of the mortgages insured by FHA and VA are bought by Ginnie Mae, and these programs could not go on without that help.

Let there be no mistake about the importance of FHA and VA programs. More than 27 million American families have used these programs since 1934. Furthermore, during the 1980 recession, FHA and VA loans financed 22 percent of all new homes built or sold that year.

Mr. President, if this Nation's housing effort is abandoned, it will cost us dearly. Not only will we leave our homeowners and potential homeowners without a future, we will be breaking the back of our entire economy.

Economists estimate that between 25 and 35 percent of the gross national product is represented by housing or housing-related production. From lumber materials in the great Northwest, through the steel mills in the Midwest, and the textile plants of the South, and finally to the advanced technology centers in the Northeast, housing affects our entire economy.

The National Association of Realtors estimates that the 1981 housing depression cost the country $108 billion in lost output and 2.1 million jobs during the year.

I am now working with other Senate Democrats to produce a housing aid plan which will stimulate housing, lower mortgage rates, and help bring this country out of its economic doldrums. We cannot wait until that plan is drafted to stand firm against deep cuts in the 1983 budget. This Congress went along with the administration's 27-percent cut in housing for the 1982 budget, but we must draw the line there.

Money spent on housing is productive; it builds capital investment and it puts America back to work. This is not wasteful spending, Mr. President, it is a necessary part of any sustained economic recovery program.

If we are to continue our Nation's historic commitment to housing, we must reject the administration's 1983 budget cuts in housing. This resolution which I am offering gives us all a chance to tell the administration along with the homeowners, home buyers, homebuilders, and the young people of America that we will not abandon them at this, their most desperate hour.

I urge my colleagues to consponsor this resolution. I hope for its early approval, and I hope that Senators will vote for it when it comes before the Senate.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 329

Whereas the Nation's housing industry has been a cornerstone of our economy since the great depression, accounting for jobs in construction, sales, manufacturing, and services, and has direct or indirect effects on nearly one quarter of the economy;

Whereas the Nation's housing industry is suffering from a depression unknown in post-World War II American history;

Whereas young couples can no longer afford the great American dream of private homeownership;

Whereas those who already own homes must watch the value of their investment erode as sales drop;

Whereas housing sales, starts, and construction spending are all down, while mortgage rates continue to rise;

Whereas substantial budget cuts in housing programs were made in the fiscal year 1982 budget; and

Whereas our Nation's historic commitment to housing is severely threatened, and cuts in housing programs would send a chilling signal through the housing markets: Now, therefore, be it

*Resolved*, That there shall be no further reduction in Federal support for housing, and that no additional cuts shall be made in the authorities of the Federal Housing Administration and the Government National Mortgage Association, or in the levels of the rural housing and the elderly or handicapped programs, which further reduce access to decent housing for middle and lower income Americans.

Mr. ROBERT C. BYRD. I send the resolution to the desk for appropriate referral.

## ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 16 seconds on leaders' time, and then, of course, there is a previous order for 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I will let the 15 seconds run.

The ACTING PRESIDENT pro tempore. It now has.

Mr. ROBERT C. BYRD. I thank the Chair.

## RECOGNITION OF SENATOR ROBERT C. BYRD

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

## S. 2151—IMPROVING THE ENERGY EFFICIENCY OF CHLOR-ALKALI ELECTROLYTIC CELLS

Mr. ROBERT C. BYRD. Mr. President, I am today introducing legislation to address a problem which has arisen under the energy investment tax credit provisions of the Internal Revenue Code. The problem occurs because of the failure of the Internal Revenue Service to issue regulations dealing with one portion of these statutory provisions. This failure to act is having an adverse effect on one area of significant energy conservation potential—the chlor-alkali sector of the American chemical industry.

The provisions of the present law were enacted in the Energy Tax Act of

1978, and were modified in the Windfall Profit Tax Act of 1980. The law allows a 10-percent energy investment credit, under Internal Revenue Code sections 46(a)(2)(C) and 48(l), for what is known as specially defined energy property under code section 48(l)(5).

This category of energy conservation property includes 12 specified types of investment, such as recuperators, heat exchangers, preheaters, and modifications to alumina electrolytic cells. In addition to the 12 enumerated types of investment, the Secretary of the Treasury or his delegate is authorized, under code section 48(l)(5)(M), to specify by regulations other types of specially defined energy property eligible for the credit.

These provisions, including that which allows the Treasury Secretary and the IRS to specify additional qualifying property by regulations, are presently scheduled to expire at the end of this calendar year. Despite the fact that these provisions have been in effect for nearly 3½ years and could soon expire, the IRS has not chosen to exercise its authority and act on the number of applications which have been filed for eligibility as "specially defined energy property" under code section 48(l)(5).

The failure of the IRS to publish regulations has been rectified in one earlier situation, involving the alumina industry. In 1980, an amendment was added to the Crude Oil Windfall Profit Tax Act that specifically qualified energy-saving modifications to alumina electrolytic cells for the energy credit. This amendment was necessitated by the absence of regulations to respond to an application concerning alumina cell modifications which had been filed with the IRS shortly after the credit was enacted in 1978.

The legislaton that I am introducing today concerns a nearly identical situation involving the chlor-alkali industry. This industry uses electrolytic cells to produce chlorine gas and caustic soda—basic feedstocks used in turn to produce a variety of other chemical products. The chlor-alkali industry nationwide uses more electricity than any other industry except the aluminum industry. It consumes 2 percent of all electricity used in the United States.

There is technology presently available to modify the electrolytic cells commonly used by the chlor-alkali industry. This technology would significantly reduce electricity consumption for each cell. For example, at one chlor-alkali plant in Louisiana, which uses electricity generated by the combustion of oil and natural gas, application of this technology would reduce energy consumption by over 460,000 barrels of fuel oil equivalent each year.

In my own State of West Virginia, a chlor-alkali plant would use electric energy 20 percent more efficiently than at present.

The chlor-alkali electrolytic cell modifications are, for all practical purposes, similar in function to modifications to alumina cells, which were the subject of the specific amendment to the code in 1980. Both involve costly changes to existing industrial processes for the purpose of reducing the amount of energy consumed. These chlor-alkali modifications are strictly motivated by the energy efficiency which is achieved by the change. They would not increase the productive capacity of the cells and are not periodic replacements of cell components, as the existing cell configurations can continue to be used for a number of years.

As was the case for alumina cell modifications, an application was submitted to the Internal Revenue Service for qualification of chlor-alkali electorlytic cell modifications as " specially defined energy property" eligible for the energy investment credit.

As I have noted already, the IRS has not as yet chosen to exercise its authority to act on this application or on any of the other similar applications submitted to it.

This legislation would specifically add chlor-alkali cell modifications to the list of those investments already specified as eligible for the energy credit as "specially defined energy property," as was done with respect to alumina cell modifications in 1980. It would be effective for a sufficient period to allow realization of the significant energy conservation potential which exists through making this category of energy-saving investment.

The present administration has demonstrated a marked preference for influencing energy policy through the tax system, in place of aggressive energy research, development, and demonstration programs. This legislation is consistent with that approach.

As a strong supporter of the energy-efficiency tax credits and other code revisions enacted in 1978 and modified in 1980, I am chagrined that the administration would consider allowing these credits to expire. The energy-saving potential of these credits remains significant.

Much of the balanced energy policy that was carefully put in place over the past 8 years, through bipartisan efforts, has been systematically destroyed or is proposed for extinction. The Congress should not allow these credits to expire, and should improve them along the lines that I have suggested today, so that we may continue to make progress toward energy self-sufficiency.

I introduce the bill, ask it be printed in the RECORD, and ask for its appropriate referral.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2151

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) paragraph (5) of section 48(1) of the Internal Revenue Code of 1954 (defining specially defined energy property) is amended—

(1) by striking out "or" at the end of subparagraph (L).

(2) by redesignating subparagraph (M) as subparagraph (N) and by inserting after subparagraph (L) the following new subparagraph:

"(M) modifications to chlor-alkali electrolytic cells, or", and

(3) by striking out "(M)" in the second sentence and inserting in lieu thereof "(N)".

(b) The table contained in clause (i) of section 46(a)(2)(C) of the Internal Revenue Code of 1954 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

| | | | | |
|---|---|---|---|---|
| "VII. | Chlor-Alkali Electrolytic Cells.—Property described in section 48(1)(5)(M). | 10 percent | Jan. 1, 1981. | Dec. 31, 1986." |

## QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum on my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

## ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business not to extend beyond 9:30 a.m., during which Senators may speak for not more than 1 minute each.

## DR. BENJAMIN BENDAT

Mr. CRANSTON. Mr. President, few Americans can look back at a more substantive record of community service than Dr. Benjamin Bendat of Los Angeles, Calif., whose achievements were recently recognized by the Jewish National Fund at the Theodor Herzl Award Dinner in his honor February 21.

Since 1929, Dr. Bendat has committed himself to efforts to rebuild the land of Israel and to help the Los Angeles Jewish community, in particular, establish and pursue its goals. A tire-

less achiever, Dr. Bendat has served in leadership positions in nearly every capacity of Jewish service, notably as president of the B'nai B'rith Lodge in Beverly Hills, chairman of numerous B'nai B'rith district functions, vice president of the Jewish National Fund and life member of the B'nai B'rith International Israel Committee.

These efforts merit our admiration and respect on their own terms. But Dr. Bendat's activism has extended beyond these achievements into promotion of social service activities throughout Los Angeles. For 7 years, he chaired the Los Angeles County Public Social Services Commission and contributed generously of his time and leadership to other Los Angeles city and county commissions for over a quarter of a century.

Little wonder that Dr. Bendat has received honors, awards, and affection from the many, many individuals and groups he has helped. His life and contributions serve as an example of what voluntarism can indeed accomplish, when inspired by the kind of compassion Dr. Bendat holds constant. I commend his life and work to my colleagues.

## SENATOR PELL'S REMARKS ON EL SALVADOR

Mr. CRANSTON. Mr. President, my good friend and colleague from Rhode Island, Senator PELL, recently returned from a tour of Central America. Acting in his capacity as ranking Democrat on the Senate Foreign Relations Committee, Senator PELL visited this very troubled region to gain firsthand knowledge of the events that are taking place.

The Los Angeles Times published Senator PELL's impressions of his trip and what the policy implications are for the United States. I found Senator PELL's remarks timely and insightful. I agree with him that we should avoid repeating the mistakes that we made with Cuba. There is a real danger that by isolating Nicaragua, we will force that country to turn exclusively to the Soviet Union.

As Senator PELL points out, there are still a number of creative options left for the United States to pursue. I strongly recommend that my colleagues read Senator PELL's thoughtful analysis. I ask that it be printed in full in the RECORD at this point.

The material is as follows:

AN ACCEPTABLY LEFTIST LATIN AMERICA—THE UNITED STATES COULD STEER NICARAGUA, EL SALVADOR OFF CUBA'S COURSE

(By CLAIBORNE PELL)

Having just returned from a trip to Central America, I am deeply concerned that the United States may be making the same mistake in dealing with El Salvador and Nicaragua that it made with Cuba two decades ago. By isolating Cuba and acting to subvert the Castro regime, we contributed greatly to making Cuba an exporter of a particularly virulent brand of communism and driving that country into the arms of the Soviet Union. In short, we helped create a monster.

The Reagan Administration, having all but written off Nicaragua as lost to communism, is now engaged in a fiery campaign to brand that nation a hemispheric renegade, a stooge of Cuba and a threat to El Salvador, if not to all Central America. The Administration's atempts to isolate Nicaragua and the veiled threats of subversion and a military blockade are ominously reminiscent of our earlier attitude toward Cuba.

Trends in Nicaragua are certainly bleak, but many basic freedoms persist, as does the possibility of redirecting Nicaragua toward becoming a more pluralistic society. But, even if Nicaragua becomes a Marxist state, all is not necessarily lost. Nicaragua could become a mini-Yugoslavia instead of a mini-Cuba, and it is largely in the United States' power to determine which course Nicaragua will follow.

Nicaraguan government officials told me during my visit that they would like good relations with the United States. As evidence of their good faith, they said they would be willing to permit the creation of some kind of border patrol to ensure that no weapons leave Nicaragua bound for El Salvador. That offer should be accepted.

In El Salvador, the Administration is avowedly trying to prevent that country from going the way of Nicaragua. That objective overlooks not only the possibilities for creative diplomacy vis-a-vis Nicaragua but also the possibilities for reaching an accommodation with the guerrilla forces in El Salvador.

On March 28, El Salvador will elect a constituent assembly that will write a new constitution, name an interim president and lay the groundwork for presidential elections in 1983. Jose Napoleon Duarte, a Christian Democrat who is now the unelected chairman of a junta that came to power through a coup in 1979, hopes to become first the interim and then the elected president. Leftwing opponents are not participating in these elections, for fear of military action against them. Without their participation, however, elections will not end the fighting. If the guerrilla forces eventually prevail, our military support for the present government will probably close off much opportunity for us to influence the course of a government that the guerrillas form.

If the rightist forces led by Roberto D'Aubuisson win the March 28 election, greater repression will result, which in turn will broaden popular support for the guerrillas. In that event, the United States should immediately cut off all military aid to El Salvador and attempt to open a dialogue with the guerrillas and their political allies, for they would be the wave of the future just as the Sandinistas were in Nicaragua.

If, however, Duarte wins—as I expect—he will have the authority to engage in a dialogue with the guerrillas himself. We should encourage this, for he will not have a military victory over the guerrillas without massive U.S. military aid or direct U.S. military involvement—neither of which would be supported by the American people, or, for that matter by Congress.

The dialogue with the guerrillas, who are not all communists, could be modeled after the process that succeeded in Zimbabwe. There, both sides agreed on an electoral mechanism that was fair to each, a cease-fire and an integration of military forces that formerly fought each other.

The government emerging from such a negotiated settlement in El Salvador might not be entirely to our liking, particularly if our only objective is to score a victory against Soviet-Cuban communism at the expense of the Salvadoran people. But a leftist-tinged government, even one involving Marxists, would not necessarily be a disaster for us or for El Salvador's neighbors. If we make it clear that we are not opposed to a leftist government as a matter of principle, El Salvador could evolve into something resembling Yugoslavia instead of Cuba.

Throwing guns and military advisers at what are basically political, economic and social problems will not work in El Salvador, and could well lead to a contagious form of communism poisoning all Central America. A negotiated settlement is the only answer.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

## DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now resume consideration of S. 951, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

The Senate resumed consideration of the bill.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield to the Senator from Alabama such time as he may require.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

AMENDMENT NO. 1235

Mr. HEFLIN. Mr. President, I call up amendment No. 1235, which is printed and at the desk.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate is engaged in debate of the Johnston amendment No. 1252 and a vote thereon has been ordered. After disposition thereof, then the Senate will proceed to the amendment of the Senator from Alabama.

Mr. HEFLIN. Mr. President, I ask unanimous consent that it be brought up at this time, unless there is some

objection to bringing it up. As I understand it, it is to be voted on back to back with two other amendments. I am merely going through the formality of bringing it up.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry. Would it not be in order at this time to discuss the Heflin amendment, with the stacking of the votes as previously ordered under the unanimous-consent agreement?

The ACTING PRESIDENT pro tempore. The Senator is correct. It would be in order to discuss it, but not in order to call it up at this time.

Mr. HEFLIN. Technically, I suppose it has already been called up because there is a special order that it will be voted on. I think the technicality of calling it up has already been provided for in that there is a special order calling for a vote on the amendment at a certain time.

The ACTING PRESIDENT pro tempore. It would be in order to discuss it.

Mr. HEFLIN. Mr. President, amendment No. 1235 contains this language, and this is the entire language:

Notwithstanding any provisions of this Act, the Department of Justice shall not be prevented from participating in any proceedings to remove or reduce the requirement of busing in existing court decrees or judgments.

This particular amendment would be added at the end of the bill as a new section.

Again, in order for you to understand exactly what this bill says, let me read it again.

Notwithstanding any provisions of this Act, the Department of Justice shall not be prevented from participating in any proceedings to remove or reduce the requirement of busing in existing court decrees or judgments.

In my judgment, this amendment is essential to the Helms-Johnston amendment, if the Helms-Johnston amendment is to work as intended.

Under the provisions of the Helms amendment which appears on page 7 of amendment 1252 to the bill, the language of the Helms amendment is as follows:

No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Basically, that amendment places a restriction on appropriations to the Department of Justice, saying that the Department of Justice cannot initiate or participate or be involved in maintaining any court action in which busing would be beyond the school which is nearest the student's home.

I assume that the purpose of such an amendment was to prevent the Department of Justice from initiating or participating in any court action involving schoolbusing. With this in mind, we also have the Johnston amendment, which says, in effect, that a court cannot issue a writ, and appears to be directed toward relief, as I understand it, rather than jurisdiction.

Then in effect, the amendment establishes transportation limitations of 5 miles and 15 minutes, or a round trip of 30 minutes.

This amendment has a provision which says that if a student has been bused beyond those limits, the Attorney General is authorized to bring suit on behalf of the student or student's family.

I think when you look at the Helms and Johnston amendments together, you see that on the one hand, the Attorney General is authorized to bring suit, but, on the other hand, the Attorney General and the Department of Justice can spend no money. If the Attorney General or the Department of Justice cannot spend money, there is no way that such suits can be brought.

Referring again to the provision of the Helms amendment which, in effect, says that no money can be spent by the Department of Justice in initiating a suit involving busing beyond the closest school, the meaning there is pretty clear. That provision is involved with new suits.

Then the other provision dealing with maintaining or participating in a court action means that the Department of Justice could not spend any money in an existing suit, where there is already a busing requirement. Under the language of the Helms amendment, the Department of Justice cannot participate in such a court action.

Assume a suit was brought to modify an existing court decree, and student X says, "I have a hardship." If the Department of Justice is a party to that lawsuit, then the language of the amendment which would prohibit spending money in an existing lawsuit would prevent the Department of Justice from participating.

If we look at existing court actions across the country, I doubt that there are any in which the Department of Justice is not a party. They have become a party in practically every existing desegregation suit in which busing is a part of the program of desegregation.

In my home State of Alabama, there are 127 school systems; 124 of those school systems are under court decrees dealing with integration and the desegregation of the schools within that system.

It has been nearly 10 years since there has been a new busing order decreed. In order for there to be any relief in most of the South, including my State of Alabama, the Helms language should have been applicable 10 years ago. For example, in Birmingham, where there has already been a court action, the school system has been under a court order dealing with desegregation for more than 20 years.

The prohibition or the spending of money by the Department of Justice is really directed toward those sections of the country in which the Department of Justice has not made an inspection of segregation patterns.

Under the Helms amendment, the initiation of new suits would be prevented. So, in effect, it is saying to those particular sections of the country, "All right, because of this, there will be no busing." Then the Johnston amendment comes in and says, "There will be no busing beyond 5 miles or 15 minutes."

To those school systems that are already under a court order decreeing busing, which might be as much as 10 years old, these amendments are saying, "You cannot reduce or remove the requirement of busing."

Here, my amendment introduces an approach directed toward school systems where there is an existing busing order, saying that the Department of Justice ought to be allowed to participate in those proceedings to remove or reduce the requirement of busing. I offer my amendment to allow the provisions of this law to apply to those school systems that already have busing. This provision of the law would not be applicable to those systems if my amendment is not adopted. Therefore, those school systems that already have busing, and that want to either modify the busing, or reduce the busing, or eliminate the busing cannot do so unless my amendment is adopted. Therefore, I offer this amendment.

I do have some other questions in my own mind, questions dealing with the constitutionality of this legislation. I think it possibly has constitutional infirmities. I am not addressing those. I am only trying to take the statutory language that is presented here, recognizing that vast sections of our country are already under existing busing orders, and further recognizing that under the provisions of the language as we have it today it would mean that there would be an acceptance of the status quo, with no modification, no reduction, and no removal, and make it equitable.

I think it is essential that my amendment, which, in effect, says that, notwithstanding any other provisions, the Department of Justice shall not be prevented from participating in any proceedings to remove or reduce the requirement of busing in existing—and note the word "existing"—in existing court decrees or judgments, be adopted to clarify the Helms-Johnston amendment.

Over the last two decades, court-ordered busing has had a direct and profound impact on the education systems of the South. In the State of Alabama alone, 124 out of 127 school systems are under Federal court orders and have been for more than 10 years. Each has a plan of desegregation. The Department of Justice has played a major role in each of the 19 lawsuits that have been brought regarding these cases. No State, outside my region, has ever been subject to such total Federal intervention in its public educational system.

After a careful study and consideration of the language, consequences, and effects of the Helms-Johnston amendment to the Department of Justice Authorization Act, I am convinced that this measure, without more, will only result in prolonging the burden which the South has had to bear, while releasing the North from any similar experience. It is 10 years or more too late to help Alabama. I believe that this measure in its present form will obstruct the settlement of existing school integration cases, prevent the modification of present busing decrees, and create chaos in pending litigation.

The antibusing amendment in substance says that the Justice Department cannot spend any money whatsoever in initiating or participating in any court action in which busing is or will be directly or indirectly involved. The language of the amendment prohibits the Justice Department from expending funds in an existing court action in which busing could be directly or indirectly involved as well as starting new suits. This portion makes it a pro-North bill and an anti-South bill because the Department of Justice is just now getting around to inspection of the North's segregation practices in schools, and prevents reduction or elimination of busing requirements in existing court cases in the South.

In order to understand the effect and consequences of the language of this amendment, it is necessary to reemphasize the present situation in Alabama and throughout the South about busing litigation. There will be few if any new lawsuits initiated in the South dealing with school desegregation. They are already filed and existing. If forced busing was to be court ordered, it was decreed more than 10 years ago in Alabama. Practically every school system in Alabama is already under a pending court order, and many of these were initiated by the Department of Justice. The Department of Justice has become directly or indirectly a party in each court action in Alabama. But under the Helms-Johnston amendment, the Department of Justice will not be allowed to spend a dime in an existing case to modify court orders. I believe anyone who is knowledgeable about court proceedings clearly realizes the chaos that will occur. If a major party cannot participate, then how can the court action proceed. The answer is clear—it cannot. Settlements and modifications of existing court orders will be impossible. It will take years of legal action and appeals to determine how to properly remove or modify these school transportation orders. I shudder to think of the amount of money which our local boards of education will have to spend regarding the chaotic litigation that would follow.

At the same time, it should be noted that the North has only recently begun to feel the impact of court action in dealing with the school desegregation and busing. It would be left virtually unscarred by the financial and social consequences of forced busing, while our southern communities will be left to their own limited and already strained resources to untangle this muddy, legal situation.

My amendment to the Department of Justice Authorization Act will prevent this financial and legal quagmire from occurring in Alabama and throughout the South. Amendment No. 1235 will provide for the authorization of the Department of Justice to participate in any proceedings to remove or reduce existing court busing orders. In this way, those southern communities which have borne the burden of compliance with Federal court desegregation decrees will not be punished for their cooperation, patience, and respect for the law.

In the past, the Department has played a significant role in working out settlements with our school boards regarding integration. Through this joint endeavor, our local communities have been able to comply with the constitutional principle of equality under the 14th amendment while avoiding Federal court surveillance. Last year, in Birmingham, for example, the city board of education settled its school desegregation cases without any busing. This would not have been possible if the antibusing amendment were in force and effect on the date of settlement because the Justice Department could not have participated in the settlement negotiations that brought a final disposition to the Birmingham suit after 20 years of tedious and costly litigation.

Amendment No. 1235 will not otherwise affect the authorization of the Department of Justice to participate in school desegregation proceedings or settlement negotiations. It merely provides a mechanism for the orderly resolution of a legal process that has been imposed on the South for the past decade. I would urge your consideration and support for this serious and necessary measure.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that I be granted 5 minutes of the time allotted to the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection it is so ordered.

The Senator from Washington.

Mr. GORTON. Mr. President, while I intend to vote against this bill, as amended, that vote will not be cast because of any criticism of the amendment of the distinguished Senator from Louisiana (Mr. JOHNSTON). In fact, I should like to begin these remarks by saying that I believe the attacks on his amendment, which revolve around the proposition that it deprives the Federal courts of jurisdiction to deal with cases relating to school desegregation, to have been misdirected.

While his amendment does include references to article III, section 2 of the Constitution, and while I believe in one or two respects it is inartfully drawn, it does not, in my view, subject itself to attack by those who believe we should not limit the jurisdiction of the court. It does, of course, limit the remedies which the courts may impose in connection with findings of de jure segregation.

But dealing with remedies which the courts are authorized to impose is an ancient and, in fact, necessary function of the Congress of the United States. As this body knows, I would have preferred a more clear and a more principled ban on the assignment of children to public schools based on race. I am afraid that the most significant criticism that one could make of the Johnston amendment is that it does not follow its own findings of fact to their logical and, I believe, inevitable conclusion, that children simply should not be assigned to schools on the basis of their race.

It does, on the other hand, represent at least a significant step in the direction of rationality. While it is constitutionally subject to challenge, it does not attempt to limit the ability of the Supreme Court of the United States to deal with that challenge. On balance, it is my opinion that it will be found to be constitutional.

I am, however, deeply troubled with the Helms portion of that amendment. Because the Johnston amendment itself continues to allow busing to be utilized as a remedy under some circumstances for desegregation, it seems to me inappropriate to limit the Department of Justice in its choice of cases in which to take part and remedies for which to ask.

I am firmly convinced that in all of the so-called social issues and in other issues as well, Congress should deal directly with the substance of the issue and not indirectly either with the jurisdiction of the courts of the United States or with the powers of the Department of Justice. For that reason, with some considerable regret, because the two are now inextricably bound together, I feel constrained to vote against the overall amendment, although I recognize that it will pass overwhelmingly. It is my hope that it will be considered on the floor of the House and that proposal similar to that advanced by the Senator from Louisiana will eventually win adoption.

I do, however, hope, in a codicil to this short talk, that the Senator from Louisiana will speak to one or two issues before his hour is up which seem to me to be still unclear in connection with his own amendment. I believe I know the answers to these questions, but I think they should be set out in the CONGRESSIONAL RECORD.

I ask the Senator from Louisiana to speak to whether or not his amendment in any respect limits the ability either of the courts or of individual school districts to close schools entirely if they wish to do so in order to limit segregation or even to enhance a racial balance which is not required by the Constitution.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GORTON. I ask for an additional 30 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GORTON. Does it limit in any way the power of the courts to set different grades or educational levels in different schools, to pair or to cluster schools, to set particular kinds of courses of academic instruction in schools either as a means to decrease segregation or to increase a racial balance? I do not think the amendment of the Senator from Louisiana restricts the courts in that respect, but I believe it appropriate to have the answers to these questions in the RECORD.

Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I have asked Senator WEICKER for time this morning, 20 minutes, which he has agreed to and I ask unanimous consent that I be permitted to proceed for at least that period of time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. JOHNSTON. It would be time charged to the Senator from Connecticut?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. JOHNSTON. I have no objection.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, with certain knowledge that my words here this morning will not change a single vote, I rise to speak on this issue because I do not want either my children or my constituents to think I acquiesced in or only mildly objected to what we are about to do here. I want them and any person within earshot or whoever may read my words to know that the beginning of the end of constitutional guarantees in this Nation occurred over my strenuous and vehement protest.

Completely aside from my own chagrin, dismay, and repugnance over our action today, I am equally appalled by the virtual silence of the press, which either does not understand the implications of this action and, therefore, that freedom of the press is also placed in great jeopardy, or just have not been paying attention. But wait until those future amendments start coming along that prohibit appeals to the Supreme Court of the United States from State supreme courts in all libel cases. Where are all of those who railed about Government intrusion in our homes and our lives? And how about searches and seizures?

Assume that at some point in the future—and I certainly would assume that it will happen—we deny Federal court jurisdiction in cases involving the question of whether or not a search and seizure of our home is reasonable within the meaning of the fourth amendment. The midnight knock on the door cannot be very far behind.

Who will stand up when Congress denies appellate jurisdiction over cases involving freedom of worship, probably the single greatest freedom we enjoy in this Nation, if we limit the jurisdiction of the court on issues of whether or not, say, prayer in school is voluntary? Let us assume that somebody offers an amendment that denies jurisdiction of the Federal courts in determining whether a prayer is voluntary where the prayer has been agreed to by the school board and the faculty, is 100 words or less, and only mentions God three times or less? In and of itself, such a limitation might not be offensive, but it would only be a beginning of attacks on freedom of worship as we have known and enjoyed it.

Mr. President, I could list examples such as these under every guarantee in the Constitution. If the people are frightened by Government intrusion now, they can prepare to be terrified in the future.

Not only has the press failed to sense the danger to constitutional government in this amendment, it has consistently simplified and thereby demigrated the magnitude of the issue by referring to it as a fight between liberals and conservatives; that it amounts to a simple difference in ideologies. Yet one of the most severe and outspoken critics of this entire charade has been the most distinguished senior Senator from Arizona (Mr. GOLDWATER), most often referred to as the conscience of the conservatives in this country. Another critic has been the distinguished Senator from Alabama, a true conservative who also happens to have been chief justice of the Alabama Supreme Court before coming to the Senate, HOWELL HEFLIN. He probably suffers more political risk as he stands here than any other person in this body, but he believes in the Constitution.

The American Bar Association, hardly a citadel of liberalism, has gone on record with a brilliant resolution strongly condemning this onslaught against constitutional government. The chief justices of the State supreme courts have warned the proponents of this amendment not only about the dangers to our freedoms, but that some State courts may very well follow the precedents considered anathema to them. Read the statements of Robert Bork, just seated on the Court of Appeals for the District of Columbia. Considered a conservative's conservative, Judge Bork has ominously warned against dealing with a philosophical problem by limiting Federal court jurisdiction.

Mr. President, the true conservative tinkers with the Constitution with the utmost caution and is absolutely unyielding in defending against this insidious backdoor effort to bypass the legitimate amendatory processes provided for in the Constitution.

Why are the proponents insisting that this not be submitted under the amendatory processes of the Constitution? Is it because they do not trust the people to reach a conclusion with which they would agree?

Is the motto of the new conservative—"Populus non Regnat"—"The People Do Not Rule"?

Mr. President, I want to make clear that I am not a cheerleader for busing. The vast majority of parents in this country do not want their children transported past the closest school to another, and their feeling does not make them either racists or bigots. On the contrary, many of them are deeply troubled by their sensitivity to the rights of minorities, and their desire that their children not spend an inordinate amount of time each day on a bus. What they want is the best education that can be provided for their children.

In my home State of Arkansas, there are 275,335 children riding buses to and from school every day. Less than 3.5 percent of these children who are riding buses do so because they have been forced to do so in order to achieve a racial balance. That sounds like a very small number; but to the parents of the children involved, it does not matter that the percentage is small.

All of the national tests show that the attainment levels of students are going down, and in my opinion the disruption caused by the perpetual uncertainty about where children will attend school from year to year is one of the contributing causes. Because of my concern about the practice of busing, I have voted for some of the antibusing amendments that I thought were reasonable and legitimate and that would have the effect of limiting this practice.

However, busing is not the real issue here today. I cannot say that loud enough or emphatically. It is not the issue. The issue is whether we are going to remain a free nation, devoted to the sanctity of our Constitution—an almost sacred document which has allowed us to become and remain the freest nation on Earth for almost 200 years. This amendment is a continuing sinister, devious attack on that document. My poor words can never fully express my contempt for what we are about to do.

We will today begin the erosion of the only document that stands between the people and a tyrannical government, or a government by whim, fancy, and caprice. Alexander Hamilton feared this very thing when he said in No. 78 of the Federalist Papers:

> There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act therefore contrary to the constitution can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorise, but what they forbid.

I realize that Congress created the lower Federal courts and has the authority to define their jurisdiction. Congress also has some control over classes of remedies that the Federal courts may order. But I do not believe for an instant—and I will never believe—that the Founding Fathers ever intended for Congress, by a simple majority, to deny the courts jurisdiction over cases, where a constitutional issue is involved.

Mr. President, if the Helms/Johnston amendment becomes law, the question posed is this: If the statutory denial of a certain remedy necessarily means the abrogation of a basic constitutional guarantee, is the statutory denial of that remedy unconstitutional? The answer is clearly "Yes," and I predict with a high degree of confidence that the courts will so hold. If by some convoluted reasoning they do not, then you can take the Constitution and use it for a dart board, because it will have been irreparably emasculated, and the people of this Nation will not be free. They will be free subject to the definition of freedom as determined by a simple majority of Congress on any given day, and depending on what the polls indicate on that given day. This is indeed a historic occasion, but it is historic for reasons which do not bring credit to the Senate as an institution. We are on the verge of setting the most dangerous precedent ever, a precedent which cuts at the very heart and soul of the constitutional doctrine of separation of powers. Article 5 of the Constitution is the proper method to alter the Constitution. That process, by its very nature, was designed to prohibit the "willy-nilly" alteration of basic constitutional principles. In the nearly 200 years since that great document was ratified, the American people have chosen to change the Constitution only 26 times. The requirement of extraordinary majorities in Congress and among the States has insured that the Constitution is amended only after profound reflection and deliberation. Justice Frankfurter called it a "leaden-footed process," and this is a positive rather than a negative characterization. I am glad it is a "leaden-footed process."

Mr. President, if Congress succeeds in this abrogation of the amendatory process, it will happen again and again and again. Even in the high emotions of the post-Civil War era, Congress, in limiting the court's jurisdiction over writs of habeas corpus, had the good sense to limit the Supreme Court's jurisdiction only to the case of McCardle, the firebrand southern editor who had been taken prisoner by the Union.

Every Member of this body knows that the first three articles of the Constitution set out the powers granted to the three branches of Federal Government. It is perfectly clear that this separation of powers was perceived by the framers as the primary safeguard of the liberties of all Americans. In the Federalist Papers, No. 47, Madison wrote that—

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of a one, a few, or many, and whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny.

This separation does not mean complete independence. Every civics student knows, that the three branches are interrelated. The Congress makes the laws, the executive branch makes sure that the laws are faithfully executed, and the judicial branch is the ultimate arbiter of what the law is. Judicial constitutional review by an independent judiciary not beholden to the people or legislature for tenure in office or continued compensation was intended as a basic check on the power of the executive branch to invade fundamental individual rights and liberties.

Chief Justice Marshall said in Marbury against Madison—it has been quoted many times—that

> It is emphatically the province and duty of the judicial department to say what the law is.

That has become axiomatic in this country. More recently, in Cooper against Aaron, the Little Rock school desegregation case that arose in the late 1950's and which presented a classic clash between Federal and State authorities, the Court restated the basic Marbury against Madison precept. In Cooper the court said:

> This decision (Marbury v. Madison) declared the basic principle that the Federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this court and the country as a permanent and indispensible feature of our constitutional system.

It is the judiciary which has the jurisdiction to tell Congress and the President whether we have overstepped constitutional bounds. That is the way it should be. That does not mean, Mr. President, that our views on constitutional issues are not entitled to some weight or even great weight in certain circumstances. Just last year, in Rostker against Goldberg, the all-male draft registration case, the Supreme Court underscored this principle. It was important to the Court that Congress had strugged with the constitutionality of whether females could be excluded from the draft, and this body's conclusion—Congress conclusion—that they could be excluded was given great weight by the Court. But we are not the final arbitor of whether our acts are constitutional. If we were, it would amount to a dangerous accumulation of power in one branch of Government. As Hamilton wrote also in the Federalist Papers:

> It could not be expected that men who had infringed the Constitution in the character of legislators would be disposed to repair the breach in the character of judges.

Hamilton explained that the concept of judicial constitutional review does not rest on judicial supremacy, but depends instead on the idea of legislative supremacy. The adoption of the Constitution expressed the people's ultimate legislative act of ratification, and as Hamilton explained, the courts are obligated constitutionally to invalidate legislation that is contrary to the Constitution, which the people have ratified.

But what if the Federal judiciary exceeds its constitutional role? Then, offending Federal judges may be impeached. According to Hamilton, the impeachment device was "The only provision on the point which was consistent with the necessary independence of the judicial character."

These basic precepts lead me to the inescapable conclusion that, in exercising its power to limit Federal court jurisdiction or its power under section 5 of the 14th amendment, Congress cannot act so broadly as to divest the courts of the function of judicial constitutional review. We may not, we cannot, and we should not, by a simple majority, vitiate judicial constitutional decisions by stripping the courts of the power to order what may be the only remedy sufficient in a given case to vindicate important constitutional rights.

Against this general philosophical backdrop, Mr. President, I would like to discuss briefly the power of Congress to tamper with the Supreme Court's appellate jurisdiction, and Congress power to limit the jurisdiction and constitutionally required remedies of lower Federal courts.

I. THE APPELLATE JURISDICTION OF THE SUPREME COURT

Article 3 provides that—

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

In cases affecting ambassadors, public ministers, and cases in which a State is a party, the Constitution provides that the Supreme Court is to have original jurisdiction. It is absolutely clear that Congress may not expand or curtail the Court's original jurisdiction. That was established by Marbury against Madison. I am sure that no Member of this body questions this as a basic constitutional principle.

In other cases, however, the Constitution provides that the Supreme Court is to have "appellate jurisdiction, both as to law and fact, with such exceptions as, and under such regulations as the Congress shall make." Although this statement seems fairly straightforward, the basic question is what limits are there on the power of Congress to make exceptions and regulations to the Supreme Court's appellate jurisdiction?

The Seminal case is ex parte *McCardle* (7 Wall. 506 (1869)). The McCardle case presented very interesting and unique facts. In 1867 Congress expanded the availability of the writ of habeas corpus to persons illegally detained by State or Federal authority. The purpose of the law was to provide protection from State prosecution and detention for Federal officials enforcing reconstruction laws in their former confederacy.

Interestingly, though, the first major test of that law came as a result of its use by a southern editor, William McCardle. McCardle sought a writ of habeas corpus which would secure his release from military authorities. Writings of the time indicate that it was generally thought that the Supreme Court would use the McCardle case as an opportunity to declare the Reconstruction Acts themselves unconstitutional. The McCardle case was first argued and decided in February 1868. The only question at that time was whether the Supreme Court had jurisdiction to hear an appeal of a lower court's refusal to issue the writ of habeas corpus. The unanimous U.S. Supreme Court held that it did have jurisdiction.

Then in March 1868, the Court heard arguments on the merits of McCardle's appeal. Later that month, Congress added a rider to a revenue bill repealing the portion of the 1867 Habeas Corpus Act extending the Supreme Court's appellate jurisdiction over cases arising under it. Although President Johnson vetoed the bill March 25, Congress passed it again over his veto 2 days later.

In a controversial move, the Court postponed further arguments in the case and then held them in March 1869. On April 12, 1869, the Court held unanimously that Congress had eliminated its jurisdiction over the case. The Court said:

We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the constitution; and the power to make exceptions to the appellate jurisdiction of this Court is given by express words.

No one is quite sure how broadly the McCardle case should be read. For one thing, as the above quote indicates, the Court did not believe that it was at liberty to inquire into the motives of Congress in taking away its jurisdiction. That is hardly the rule today. The Court regularly inquires into congressional motives. Another important point about the McCardle case should be emphasized. Later in its opinion, the Court said the following:

Counsel seems to have supposed, if effect be given to the repealing act in question, that the power of the Court in cases of habeas corpus, is denied. But this is an error. The act of 1868 does not except from the jurisdiction any cases but appeals from circuit courts under the act of 1867. It does not affect the jurisdiction which was previously exercised.

What the Court is saying here is that Congress had not taken away all avenues for appealing habeas corpus cases to the U.S. Supreme Court. In fact, the Court had certiorari jurisdiction to hear the McCardle case. Further, under section 14 of the Judiciary Act of 1789, the Supreme Court and other courts could issue writs of habeas corpus and all other writs necessary in the aid of their respective jurisdictions. A writ under this section would have extended to McCardle since he was in custody under the authority of the United States. From the last paragraph of the Court's opinion, it seems pretty clear that the Court was welcoming McCardle to use these remedies, but there is no evidence that he did.

It seems to me that all we can take from the McCardle opinion is that Congress has some authority to limit the appellate jurisdiction of the U.S. Supreme Court. It is curious that McCardle appealed to the Court under the act of 1867 since he also had available to him section 14 of the Judiciary Act of 1789. As the Court pointed out, in upholding the power of Congress to take away so much of its appellate jurisdiction that was granted by the act of 1867, it left open to him other habeas corpus remedies. The case does not stand for the proposition that Congress can completely divest the U.S. Supreme Court of appellate jurisdiction over habeas corpus cases. I am confident that since the right of habeas corpus is spelled out in the Constitution, the Court would not have allowed such a result.

The argument that the McCardle case should be given a rather narrow reading is underscored by a case decided only 3 years later, *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1871). Klein makes clear that Congress may not enact legislation to eliminate an area of jurisdiction in order to control the results of a particular case. I will not go into the facts of the Klein case, but most scholars agree that the decision strongly supports the contention that Congress must exercise its power to limit jurisdiction in a manner that does not derogate the independence of the Federal judiciary. Jurisdictional limitations must be neutral in impact. It is clear that Congress may not decide the merits of a case under the subterfuge of limiting the Court's jurisdiction.

There are also other fairly obvious limits on the authority of Congress to limit the appellate jurisdiction of the U.S. Supreme Court, or the jurisdiction of lower Federal courts for that matter. Congress may not act in a way that violates another provision of the Constitution. The obligatory example is that Congress might not by statute prohibit blacks from bringing cases in Federal courts. To do so would clearly violate the fifth amendment.

The lower Federal courts are creatures of Congress, and it is fairly clear from the case law that Congress need not vest lower Federal courts with the full extent of the Federal judicial power. I am aware that *Sheldon* v. *Sill*, 8 HOW 440, 12 L.Ed. 1147 (U.S. 1850), seems to grant Congress fairly broad authority to limit the jurisdiction of lower Federal courts. I also know that until 1875 Congress refrained from providing the lower Federal courts

with general Federal jurisdiction. Until that time, the State courts provided the only forum for vindicating many important Federal claims. Dictum in a fairly recent Supreme Court case, *Palmore* v. *U.S.*, 411 U.S. 389, 400–402 (1973), seems to recognize broad congressional authority to limit the jurisdiction of lower Federal courts.

I am confident, however, Mr. President, that there are real limits on our authority in this area. Again, for example, we clearly cannot limit court jurisdiction in a way that would implicate other constitutional provisions. And I am confident that in evaluating the constitutionality of one of our acts, the court will inquire into our motives. Some of the bills now pending in the House and Senate which seek to divest the courts of authority to hear certain controversial issues are implicitly premised on the expectation that State courts will in fact prove less receptive than the Federal courts have been to assertions of those controversial rights. In other words, the Court might find that it was the intent of Congress to water down basic constitutional rights by leaving them to the State courts to decide.

I think the authors of such bills might be taken by surprise, Mr. President. The State courts are filled with many distinguished jurists, and those courts will still be bound by the Constitution and constrained to follow the Supreme Court's authoritative decisions construing it. As Prof. Laurence H. Tribe of Harvard University pointed out last year in testifying before a congressional committee, State courts may choose to "replicate the very rulings that had inspired jurisdictional restructuring, thereby freezing the law unwisely but otherwise rendering the shift from Federal to State courts too inconsequential to have been worth the effort. * * *" On the other hand, there is some danger that the State courts would move in 50 different directions and there would be no uniformity in interpreting the Constitution. We might end up with 50 separate interpretations, and I submit to you that such a result would be completely at odds with the intent of the Founding Fathers.

Such a result would completely destroy the constitutional fabric that has kept our Nation free, our homes secure, our rights protected, and our institutions sound for almost 200 years.

Some of the other points I raised in discussing the limitations on the power of Congress to tamper with the appellate jurisdiction of the Supreme Court are also applicable here. I am confident that the Court would hold, as Professor Tribe suggests, that—

> Congress may not so truncate the jurisdiction of an article III court as to empower it to "decide" a legal controversy while denying it any means to effectuate its decision—or even, as in the ordinary declaratory judgment, at least to alter the concrete situation of the parties or the range of options open to them. Congress broad authority to regulate the panoply of available remedies, in other words, stops short of the power to reduce an article 3 court to a disarmed, disembodied oracle of the law lacking all capacity to give concrete meaning to its decision that one party won and the other lost.

Professor Tribe's comment is especially apropos in the context of the Helms/Johnston and Gorton amendments. What if, in a given situation, try as it may the only way the Court can vindicate important constitutional rights is by ordering the assignment of students on the basis of race, and transportation more than 5 miles or 15 minutes from the student's home? If such relief were constitutionally necessary, then I echo the words of Professor Tribe that these amendments would "reduce an article III court to a disarmed, disembodied oracle of the law lacking all capacity to give concrete meaning to its decision."

Finally, Mr. President, my comments about Congress power under section 5 of the 14th amendment will be very brief. Some of the basic principles I have already mentioned are applicable here as well. At the risk of undue repetition, it is clear that Congress could not act to take away a remedy in a manner that would violate another provision of the Constitution. And as I have said, that is what I think we are doing in passing the Helms-Johnston amendment. I also echo the sentiments of the court in Katzenbach against Morgan, that section V of the 14th amendment does not empower Congress to take actions which dilute due process guarantees.

In conclusion, Mr. President, I think what we are doing is wrong as a matter of constitutional law and as a matter of sound public policy. In the recent history of this country, Federal courts have performed an essential function. They have taken action to protect constitutional rights when politicians have refused to do so. They stand as a bulwark for the protection of our basic constitutional guarantees. We should support that role rather than detract from it.

Mr. President, I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 10 minutes.

How much time is remaining?

The PRESIDING OFFICER. There is 44 minutes and 36 seconds.

Mr. JOHNSTON. Mr. President, many years ago, as a freshman in high school when I first took debate from a great teacher of mine, I learned two things. No. 1 was, when you have a weak case, you talk about something else. And No. 2, he taught me a little saying that has remained with me all these years and it is this: Omission is admission.

Let us start with the last one first:

We have had this bill here in Congress for over 1 year. For over 12 months, this legislation has matriculated through this Congress and for months and months we have been engaged in a filibuster here in the Chamber.

Mr. President, in all that time, I do not recall one of my colleagues getting up and defending forced busing. Indeed, they want to talk about something else. Do you know what the issue is today, according to my distinguished friend from Arkansas? The issue is not busing. Oh, no, do not talk about busing. The issue is whether we will remain a free Nation. Can you imagine that? Whether we will remain a free Nation, whether a freely elected Senate, elected by the people of this Nation, exercising their powers under section 5 of the 14th amendment can impose a restriction on courts? Is that the curtain of tyranny coming down? I submit if there is any tyranny involved in this whole issue, it is the tyranny of an unelected court discovering a new right which is not a constitutional right.

No one has ever said busing is a constitutional right. All they have said is that busing is a remedy to seek to vindicate a right.

So if there is any tyranny, it is government without the consent of the governed.

No, the issue is not whether we will remain a free nation, but whether a freely elected Senate exercising the powers expressly granted to it under the Constitution can exercise the right of the majority in a free nation.

Mr. President, busing is not the issue because busing cannot be defended and there is an admission of the ineffectiveness of busing. In 1 year, none of my colleagues can find anything good to say about busing. One would think that someone would come up and bring some social science evidence. There have been reams and reams and hundreds of pages written about it by the most distinguished educators and social scientists in America. One would think that they would want to close the issue, to join the issue, on the question of whether it works.

Does it integrate schools? Does it promote education? Does it improve the reading, the writing, the mathematics or any other skill of any student, black or white? Where is the evidence? Where is the debate on that issue? It is not to be found on the floor of this Senate.

My distinguished friend from Arkansas begins his speech by saying the issue here is not busing. Other opponents begin their speeches with the same thing.

Mr. President, if the issue is not busing, then what is the issue? Well, I guess the issue to many of my colleagues is the constitutionality of this amendment. But, amazingly, the real issue of constitutionality is also not discussed. The American Bar Association has never talked about the Johnston amendment. The chief justices of the State courts have never talked about the Johnston amendment. They talk about some vague area of taking away jurisdiction from the Supreme Court.

Let me say right away that I have never regarded this amendment as being grounded principally upon a jurisdictional attack on the Supreme Court, nor upon the exercise of the powers under article III, section 1 of the Constitution.

I said that when the amendment was introduced and I have said it all along. It is true that there is an allusion to article III, section 2 of the Constitution in this bill. On page 2, here is all it says:

> The Congress is hereby exercising its power under article III, section 1, and under section 5 of the 14th amendment.

That reference to article III, section 1 of the Constitution was inserted really on the day before the amendment was put in, almost as an afterthought.

It is true that, in my judgment at least, Congress can limit jurisdiction. There is a whole history of cases decided by the Supreme Court, including ex parte McCardle in 1868, including the cases involving limitation of injunctions in labor disputes, including a whole raft of cases giving to Congress that power, and it is true that the bill refers to that power. I do not make any apologies for that. I simply say this amendment is grounded predominantly on section 5 of the 14th amendment.

Indeed, what we do in the amendment—I wish the lawyers who are interested in this issue would look at what the amendment says—we deal with the All Writs Act, which is section 1651 of title 28. The All Writs Act authorizes remedies to the Federal courts, and deals with what it says, it deals with writs, and it puts a limitation on writs for the Federal courts.

It also deals with the Civil Rights Act of 1964 in granting to the Attorney General the precise same powers that the Attorney General had with respect to school segregation cases, and that is to say, when the Attorney General receives a complaint from a parent that his child is being bused in excess of the limitations of this act by court order, then the Attorney General is authorized to vindicate those constitutional rights by bringing a suit. That is precisely the same power that the Attorney General has under the Civil Rights Act to bring suits on behalf of children who are otherwise deprived of due process of law.

There is no reference to any jurisdictional statute at all other than, as I say, the All Writs Act, which is a statute dealing with remedies and with the Civil Rights Act of 1964 which gives additional authority to the Attorney General.

Mr. President, I think it is appropriate at this time that I very briefly say what else is in this act. First of all, we make findings, as we are authorized to by the decisions of the Supreme Court under section 5 of the 14th amendment. Those findings have been reiterated here many times. You can sum those findings up by saying that busing does not work, and it has been proved not to work.

Second, we put the limitations on injunctive relief. Those limitations, Mr. President, are directed toward Federal court orders by amending the All Writs Act. They do not limit the power of school boards, duly elected school boards. If a school board wants to bus children all over its parish or all over its county, it is not prohibited from doing so by this amendment. Nor indeed would a State court if it undertook to order that busing. This legislation deals only with the power of the Federal courts under the All Writs Act, and it does put limitations upon those powers.

Those limitations are that a court cannot order busing unless, first of all, it is voluntary or, second, it is reasonable.

We further define "reasonable" to mean, first, that there are no other alternatives; that, second, you cannot cross a district, leapfrog a district, in effect; that, third, you cannot order busing if it is likely to result in more racial imbalance or have a net harmful effect on education or if the round trip time or distance exceeds 30 minutes or 10 miles.

We do define the school closest as being that school with the appropriate grade level and with space available, which existed immediately prior to the court order, even though that court order might predate the enactment of this act.

Mr. President, my distinguished colleague from Washington asked a question whether or not this amendment could prevent pairing or closing or clustering or other things involving public schools. The answer is this: First of all, a school board can do what it wishes. It may pair, it may cluster, it may build any kind of schools or close any kind of schools it wishes so long as it does that on its own; so long as its duly elected or duly appointed members do that and not under the compulsion of a Federal court order.

However, if the net effect of a pairing or a closing would be to cause additional busing outside the limits of this act, then it would be in violation of this act. If, in effect, the Federal court order by ordering a pairing or closing would be indirectly to make this a prohibited busing or school assignment, then it would be prohibited.

Now, Mr. President, let me say a word about the Helms amendment. The Helms amendment provides that none of the funds provided under this act may be used to, in effect, finance the Justice Department to seek busing orders. If the Helms amendment is good, it is not very good, or if it is bad, it is not very bad because it expires on September 30, 1982. I hope we will have this legislation enacted prior to that time, but if it is, it will not be enacted very much prior to that time.

In my view there is certainly no constitutional infirmity in doing this because, after all, the right of the Justice Department to champion the rights of individuals in school desegregation cases or indeed in other constitutional cases did not exist prior to the Civil Rights Act of 1964. Indeed, that language, the language which I put in this bill, comes verbatim from the Civil Rights Act of 1964, except that whereas in this amendment it gives the Justice Department the right to champion the right of people who are bused excessive distances, in the Civil Rights Act of 1964 it gave them the right to champion the rights of those who were victims of discrimination, the point being that it was necessary to insert that language in 1964 by statute because otherwise individuals would have to vindicate their own rights. The Justice Department could not do that for them. So that which Congress has given Congress can take away.

In this case Congress would simply be taking away that right between now and September 30, 1982, and even the Helms amendment would not prevent a court from exercising such jurisdiction or from making such orders as they wished to do without reference to whether the Justice Department brought the action.

Indeed, much of what Federal courts have done is done, as we say, sui sponte, that is, on their own motion, and that would not be prevented by the Helms amendment.

Mr. President, the Justice Department under this amendment would be permitted to bring suits; they are permitted to do so but they are not required to do so. An individual obviously could bring his own suit or a school board would also be permitted to bring its own suit if it had been the subject of a Federal court order.

There are some who would argue that a school board could simply ignore a Federal court order to the extent it exceeded the limits of this bill. I do not believe that is so or at least I would certainly recommend, were I advising the school board, not

to do that but rather to go into court and have the court order modified in accordance with this act.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 29 minutes and 16 seconds. The Chair indulged the Senator in his original request for time such as not to interrupt his comments.

Mr. JOHNSTON. I thank the Chair. One further comment before I yield the floor. This act does have retroactive effect, that is to say, if earlier this year, which would have been obviously prior to the passage of this act, a student were made the subject of an unreasonable amount of busing, as the term "reasonable" is defined in this act, then this act would authorize the exercise of remedies to reduce that amount of busing even though the order predated the order of this busing.

Mr. President, let me say one further thing. For those who say this act is unconstitutional, all I plead is that you go read the Constitution and read what the Supreme Court has said. I think my colleagues, some who have attacked it, have never bothered to go see what the Constitution says or indeed to see what the Supreme Court has said.

Let me read just a couple of short paragraphs from a recent Supreme Court case, Katzenbach against Morgan, 1966.

By including section 5—

That is to say section 5 of the 14th amendment upon which we rely—

the draftsmen sought to grant to Congress by specific provision applicable to the 14th amendment, the same broad powers expressed in the Necessary and Proper Clause—

That is article I, section 8, clause 18 of the Constitution—

correctly viewed, section 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth amendment.

Again, in Oregon against Mitchell, a 1970 case, the Court said at 143:

The manner of enforcement involves discretion; but that discretion is largely entrusted to Congress, not to the courts.

At 145:

The power of Congress in section 5 is to "enforce" the Equal Protection Clause was sufficiently broad, we held, to enable it to abolish voting requirements which might pass muster under the Equal Protection Clause, absent an act of Congress.

At 147:

But the choice of appropriate remedies is for Congress and the range of available ones is wide.

At 248:

It is not for the courts to re-examine the validity of these legislative findings and reject them. (W)here we find that the legislators, in light of the facts and testimony before them, have a rational basis for finding a chosen regulatory scheme necessary . . . our investigation is at an end.

That is what the Supreme Court has said recently. Prof. Henry M. Hart, Jr., of Harvard University, one of the most distinguished constitutional scholars, writing in the Harvard Law Review, stated this on this subject:

The denial of any remedy is one thing—that raises the question we're postponing. But the denial of one remedy while another is left open, or the substitution of one for another, is very different. It must be plain that Congress necessarily has a wide choice in the selection of remedies, and that a complaint about action of this kind can rarely be of constitutional dimension.

Mr. President, the scheme of this amendment is not to deny the courts or school boards the right to desegregate schools. They will be left with a whole range of remedies. Indeed, I think the most effective remedy is the right of any child to attend any school which that child desires and to be provided transportation. You know that is what Brown I and Brown II were all about. Nobody had ever come up with this affirmative "forced busing" in the Brown cases back in 1954 and 1955. Rather, that dealt with a right of a student voluntarily to attend a school.

That right is further guaranteed under the Singleton case, which was decided, if I recall, back in 1971. That is not taken away. The right to create magnet schools, to do all that range of educational innovation is not prohibited by this act.

The drawing of proper nondiscriminatory attendance lines is not only prohibited by this act but is required otherwise by the Constitution, by the 14th amendment, and that will remain in place. Indeed in most areas, in my State, a proper and nondiscriminatory drawing of attendance lines results in about 90 percent of the integration which you would achieve otherwise.

So, Mr. President, measures to achieve integrated schools are not denied by this act. There are remedies available, and indeed more effective remedies. What we have done in our findings is to state as a fact the conclusion of such distinguished social scientists as David J. Armor and James J. Coleman, who have, after exhaustive study, after thousands of man-hours of research into the demographics and statistics and the provisions of various court orders across the country as they relate to scores of cities, come up with the conclusion that busing simply does not work. As they say, because of the phenomenon of white flight, which is a fact, it has not resulted in integration and because of statistical studies, the promise, the great hope, held particularly James J. Coleman, that it would elevate attainment levels has not proved correct.

All of those studies I have put into the RECORD and they simply show that the brave experiment with busing, noble experiment, really, just simply did not work. If it worked, if it worked truly to desegregate our schools and to bring the promises that it was supposed to bring, this amendment would not have been offered by me or anyone else. But it has not. This amendment is a recognition that just as medical science moves on from discovery to discovery and finds that something does not work—thalidomide did not work and hurt the patients—we reject that drug and go on to new remedies. That is what this does at this time.

It is not turning back the clock. It is not a return to racism. Quite the contrary, Mr. President, quite the contrary, what this will allow us to do is to desegregate our schools but also to move on to what is really important which is the education of our children.

I predict if this can be passed into law—and I am extremely hopeful that it can—that we will have a return of public support to education that will not only enable us to pass the necessary funding taxes and resolutions around the country which now are increasingly being denied to education, but it will mean a return to the public schools of so many of those of the best and brightest who have withdrawn from public schools.

Mr. President, this amendment truly is a public education amendment. I believe fiercely and fervently in public education. And I believe this amendment will do as much to help public education as anything this Senate has done in many years.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, today marks the end, temporarily, in this body of a matter which started originally here as part of a State, Justice, Commerce appropriations bill back in 1980. The specific legislation before this body of S. 951, which embodies the concepts raised, or a portion of the concepts raised, in 1980, was commenced in June of 1981.

The initial matter was put to rest in 1980 by a threatened veto by then President Carter. The full constitutional process on this matter commencing in June of 1981 now gets to its first mark in March 1982, that mark being a vote by the U.S. Senate.

The question now arises as to what happens as this matter wends its way through the full constitutional process. One of two things will happen out here on the floor after passage. One is the bill, after its passage, will be sent over as a Senate bill to the House, at which time that body will apply to it its rules and procedures. Depending on what it does, if indeed it acts at all, the bill may come back to the U.S.

Senate, at which time there will once again be a full airing of the matter.

I have engaged in this debate day by day, never predicting anything, but only saying it would be my hope not that I could ever win but that I could delay the enactment of this legislation into law during this session of the Congress. I will take this opportunity to state my belief this legislation will not be enacted into law in this session of the Congress.

The alternative is to ask that this bill, after it passes, be folded into the House bill, at which time various motions would be made leading up to the appointment of a conference, all of which motions are open to debate, all of which motions would be debated extensively.

So, to use the language of the advertisement, "You can pay me now or you can pay me later;" we can discuss it now or we can discuss it later. But that is exactly what we are going to do, discuss it.

The procedure I have just discussed would involve a unanimous consent or motion to proceed to H.R. 3642. That is debatable.

S. 951 would be called up as an amendment to H.R. 3642. That is debatable.

H.R. 3642, as amended, would be passed. That is debatable.

To insist on a conference with the House is debatable, and the Chair's authorization to appoint conferees is debatable.

I want the record clear both as to the record here in the U.S. Senate and that which comes to the understanding of the American people. The fight is not over. My good opponent from Louisiana and his colleagues have burned up, in football parlance, about 14 minutes of the last quarter and gained 5 yards. That is a long way from the goal.

It is also true that substantial signals have been sent, not only as to this unconstitutional thrust but also any others that any of my distinguished colleagues have in mind, whether they deal with school prayer, abortion, whatever.

The business of this country right now is urgent. It is the business of unemployment. It is the business of high interest rates. It is the business of the Caribbean and the business of the Middle East. It is the business of young people unable to pursue their educational dreams. It is the business of minorities deprived of their civil rights and of their individual liberties piece by piece, not just by this legislation. It is the shrinking of the goals of America and the lesser expectations of this generation. This is the business, the principal social issues, of our times. It is not the reopening of old wounds, be it segregation or violations of religious rights as stated in the first amendment. It is not a matter of trying to overturn legislatively the law of the land as it relates to a woman's right to an abortion.

I heard on the radio this morning as I was driving to the airport reports that this, when passed, will be the most sweeping change as it relates to busing, the most sweeping restrictions as they relate to busing and court-ordered busing, to remedy matters of discrimination.

That is the first point that I want to make this morning. The Congress has always had it in its power to end discrimination, to end segregation. We always had it within our power to do that on the floor of the U.S. Senate. The fact that we chose not to avail ourselves of the powers inherent in this body is what precipitated the matter of which the proponents now complain; that is, that the courts did have the courage to address the issue which Congress has ducked.

It never needed to be, and I now refer to schoolbusing. It never had to be.

I tell you, Mr. President, the voters of this country, their gaze, their concentration, is being deflected onto the courts when, indeed, the blame belongs right here, in this Chamber and the one across the way.

It would have been possible for us to construct an educational system that, by virtue of its quality, either in bricks or mortar, personnel or programs, would have pulled down barriers of segregation. But that costs money, and that means taxes, and that takes political courage. And that was the courage that nobody had in any great abundance—rather, only the courage to turn our heads the other way, knowing that the document that is greater than any of the flesh and blood on this floor would, eventually, construct the solution to insure every American's rights.

And, indeed, the Constitution was greater than any Senator, any Congressman, any President. It did provide the basis for the guarantee of equal opportunity in education for every American.

So, the issue here, Mr. President, is not a policy debate on busing or whether it works or what the tool is to be in terms of assuring that equality. Rather, it is the attempt to tear down the one mechanism that has been impervious to the attacks of the politicians and philosophers, those who take a lesser view of their fellow citizens. That is why the fight.

I cannot do anything about the policies of this administration, as much as I disagree with them, in the area of civil rights. I can speak out, but I am not going to change what they feel to be their mandate from the election of 1980. I speak out, they speak out, they have the votes, and I lose. I accept that. That will always be a matter of the political and legislative process. But what cannot change and what cannot be taken away is the Constitution. That is worth every minute spent on this floor. And some day, my good friends from North Carolina and Louisiana will avail themselves of it, and they will want it intact.

Now, in the final analysis, this body does not operate separate and apart from the American people by virtue of that Constitution and the political design contained therein; this body reflects the American people. And as harsh as my criticisms have been in the months past, during the course of debate, of those who propose this legislation, there is no way of absolving or removing the American people from what goes on on this floor or on the other one.

During the great civil rights debates, I remember, as a youngster growing up in the North, comments that were made. It was said by my Northern neighbors that the reason why we did not have any civil rights legislation was that a few Southern Senators were blocking it on the floor of the U.S. Senate. It was a great excuse for the community in which I grew up. But we now know that it was not a few Southern Senators. America did not want that civil rights legislation. And when America got up on its haunches, when it received its inspiration, whether it was from a white man like Alfred Baker Lewis in my hometown of Greenwich, Conn., or whether it was from a black man like Martin Luther King, when that inspiration was felt on the floor of the Senate and in the House, no rule XXII and no few Senators could block it.

Well, the same holds true today. It is not just a few Members of the conservative bent on the Republican or the Democratic side that are pushing through this legislation. It is that nobody speaks for the Constitution any longer. It is forgotten as the origin of every piece of greatness that attaches to individual or nation. And when I go out to speak of this matter, it is why the trite and temporary words like "forced busing" dominate the conversation while everybody scratches their heads and says, "What do you mean, Constitution? What constitutional issue is it?"

No; this is not a civil rights battle. It is not a civil rights battle. At issue here for 10 months, today and those which follow, are American rights—American rights. That means every one of us. Because if this precedent takes hold, no one of us has any clear-cut standing free of politics in the courts of this country.

Mr. President, as I stated, the time has come now for others to speak up, to say what might temporarily seem to be against their own self-interest but, which will, in the long run, promote

their own freedom and the greatness of the Nation.

Remember this: When the Constitution of the United States was written, the thoughts and the ideals expressed therein were directly against the self-interest of the handful of Virginia planters and aristocracy from other parts of the United States that wrote it. What they wrote was against their self-interest but for their children and, indeed, an entire Nation. It is not a nation of 20 Virginia planters and a handful from Beacon Hill, or from New York, or Georgia, and Connecticut, but, rather, a nation of 250 million persons, most of whom enjoy a quality of life better than that of the men who wrote that Constitution. So, you see, it was not against anyone's self-interest.

Yes; probably many of them had to swallow for a few moments in the terms of history's judgment and history's facts, but what they decided clearly gave to this country the greatest quality of life ever enjoyed in the history of man.

Now, once again, the U.S. Senate has eschewed its opportunity to do the correct thing, the constitutional thing, the courageous thing.

There are those who will vote for this legislation, hoping that the Speaker will hold it at the desk. There are those who will vote for this legislation knowing that if it comes back, another filibuster will take place, one there is no way of resolving in the press of an election year and an early closing of Congress. There are those who will vote for it, fervently hoping that some lightning bolt will strike in the Justice Department of the United States and that the Attorney General will advise his principal client that this is unconstitutional and an encroachment on his office; and, therefore, as with his predecessor, President Carter, the President will threaten to veto it or will actually veto it.

There are those who, in the final analysis, will say, "We will vote for this because, in the final analysis, the Supreme Court of the United States will declare this unconstitutional."

So we will have gone through the whole scenario that brought us to this problem in the first place: the failure of men to take the power of this office and use it in a way that speaks not for votes but for eternal principle.

Today marks the end of consideration of this measure by this body. Those of us in the Senate who care about the Constitution and the independence of the courts must entrust their protection to other participants in the legislative process; namely, the House of Representatives, the President and ultimately, perhaps, the courts themselves. Time should tell that the Constitution itself is its own best defense.

It may very well be that our colleagues on the House side will show more courage on behalf of the fundamental tenets of our democracy. Let us hope that they will know better than to be swayed by ephemeral political considerations and that, instead, they will look to the long-term consequences of their actions. Let us hope that they will recognize that what is at stake here is not busing but the separation of powers that has served this country so well over the course of two centuries.

Failing that, perhaps the President himself will end his administration's silence on this matter and act to protect the powers of his office just as his predecessor did.

Even if that does not come to pass, there is still the ultimate refuge of the courts. And there is no doubt in my mind that if they are forced to an opinion, they will find this measure grossly and blatantly unconstitutional.

So this cause is by no means lost. The victory will come merely on another day, in another chamber. And the point has been, and will continue to be made that the Constitution must not and will not be sacrificed to serve the cause of partisan politics. It will not be riddled with holes just to please the people who are opposed to busing or some constituency which wants prayer in our public schools or some group which would like to outlaw abortion. For the Constitution is above all that.

Let us get on to the real problems, the real issues at hand. In relation to these, we can ill afford to damage what does work in this country—and that is the Constitution.

Toward the end of the last century, one of my constituents, Mark Twain, wrote in "A Connecticut Yankee in King Arthur's Court" the following words. He said that his kind of loyalty was "loyalty to one's country * * * not to its officeholders." For the country, said Twain, "is the real thing, the substantial thing, the eternal thing; it is the thing to watch over and care for, and be loyal to." The country, and not some single-issue constituency. I have great faith that our colleagues on the House side will demonstrate that loyalty which we in the Senate have so sorely lacked.

That is the issue. It is the strongest issue. It is what the argument has been about. No amount of words designed to charge emotions and to bring forth the darker side of all of us as human beings can obliterate that fact.

On the theory that is being presented to the U.S. Senate, what happens if this is declared unconstitutional? That is something to contemplate. The Senate of the United States is usurping the entire concept of judicial review and has encroached into this separate but equal branch. So what happens if that branch says this is unconstitutional? Again, that is why there has to be one final determination as to whatever any of us do.

I hope that the Congress of the United States will defeat the Johnston-Helms amendment. I hope the Congress of the United States will devise legislation to make it totally unnecessary for the courts of this country to involve themselves in school discrimination cases. Nothing such as that will happen. The Johnston-Helms amendment probably will be adopted. Then, every Senator can go home and look for those votes by telling his or her constituents that the job has been done, the discomfort is over, knowing full well that not 1 in 10 will be asked by that constituency as to the status of his or her rights under the Constitution of the United States. It will be a great vehicle for campaigning.

How many of my colleagues on the floor have voted against amendment after amendment after amendment out of fear—out of fear of being labeled as being for busing and all that entails—the feeling that there is not time enough to explain the Constitution, the feeling that they have to deal in the most expeditious way with the most immediate problems?

So, I want to speak on their behalf; for, whatever happens after we are through with our action on the floor, there is not one Senator that I know who has acted as he or she has in the sense of being for busing—not one.

The thing to worry about after this is over is having no Constitution.

Mr. President, how must time do I have remaining?

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator has 5 minutes 23 seconds.

Mr. WEICKER. Mr. President, I should like to take a few moments, in the context of this debate, to express my deep and abiding appreciation for my friend and fellow Republican, the senior Senator from Arizona. America has long looked to BARRY GOLDWATER as a man who speaks his mind and speaks it plainly, whatever the circumstances. By political friend and foe alike, he is regarded as a man of the highest personal integrity. His importance as a public figure transcends that a Senator or former Presidential candidate or party leader. For as the Washington Post recently reported, Senator GOLDWATER has been nothing less than "the conscience of the Nation's conservative movement for a generation."

Unlike many on this floor who wear the label when it suits them, Senator GOLDWATER is a political conservative to the core. It is not surprising, therefore, that the Senator's conscience has caused him to vote and speak out against the new right and its agenda of social issues, one of which is under consideration today.

As Senator GOLDWATER said in a recent speech on the Senate floor:

Whatever our viewpoints may be on the various social issues as a matter of policy, there are fundamental principles involving the separation of powers doctrine and independence of the courts that must be balanced against our feelings about busing or whatever the immediate subject is.

Human Events, a newspaper which called itself the National Conservative Weekly, took the Senator to task for this speech in an article headlined "Goldwater Dismays Conservatives—Again." I submit that the author of that article does not know the meaning of the word "conservative." What the champions of the New Right exude is not conservatism, not by a long shot. They deal in narrow mindedness, self-righteousness, and a new brand of elitism based on membership in the Moral Majority. The conservatism of a BARRY GOLDWATER is in marked contrast that of an across-the-board commitment to the supremacy of the individual and to that document which protects our individual rights, the Constitution.

Prof. Richard Taylor of the University of Rochester has written in the New York Times that "a political conservative, within the framework of United States politics, tries to conserve something quite specific; namely, the values embedded in the Constitution. * * * Perhaps," he goes on to say, "there are persons who have a clearer vision than our judiciary, guided by our Constitution, of what is right and wrong. But it can never, in the eyes of the genuine conservative, be the role of Government to force such claims upon us. The Constitution explicitly denies to Government any such power, and a conservative is simply one who thinks the provisions of that document are worth conserving."

Mr. President, I thank Senator GOLDWATER for his defense of the Constitution. His voice of reason was never more needed than in this, the 97th Congress.

That was an act of courage. For some conservative publication to say he no longer deserves the title of "Mr. Conservative" because of his stand on this issue, and his stand more particularly in the sense of it being a constitutional stand, is rubbish. That is the conservative stance. The one that I have espoused is the conservative stance. We just do not sit here and change the Constitution by legislation on appropriations or authorization bills but take the tough road—two-thirds here, three-quarters out in the States. Try that. That is what the Constitution calls for.

I interpret this document very strictly, and so does the Senator from Arizona.

I will tell you what is the problem with some of my conservative friends. They feel that if we do not do it in 2 years, we are never going to do it because we are not going to be around. They are probably right, because I think the whole Nation is getting sick of their intellectual rubbish. They are willing to sacrifice anything to climb to the top of their philosophical Mount Everest, which they have been unable to climb for decades. They recognize the shortness of time that is going to be allowed them, so the hell with the Constitution and everything else. Let us just get to the top.

BARRY GOLDWATER is not an expedient man, he is not a reckless man, and he is no liberal. He appreciates what we have and what it has meant to each of us. He does not feel that the attaining of many of his dreams is worth anything if in the course of that achievement, the Constitution is left in scraps.

Mr. President, I ask for the defeat of what I consider to be in my lifetime the most serious constitutional threat on the Senate floor.

But in any event so that the record is clear and so there are no misgivings as to the road that lies ahead, this is not going to become law in 1982 and when school boards devise their plans for 1982 understand that they can still look to the strength of the Constitution of the United States in implementing their programs and not the weakness of the humanity on the Senate floor.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 10 minutes.

Mr. President, I repeat, omission is admission. The failure to address the central question posed by this amendment, that is to say does busing work, and is it a desirable policy for this country, is an issue that has not been addressed in the year that we have debated this issue in both the committee and on the floor of this Senate. It has not been addressed, I repeat, Mr. President, because it is indefensible.

We have heard about how the Constitution is going to be torn to shreds. We have heard about how we will no longer remain a free nation. We have heard about the merits of BARRY GOLDWATER. We have heard about the rules of the Senate and the rules of the House of Representatives and we have heard threats of filibuster.

We have been reminded this is not going to pass in 1982, and I say parenthetically that that is the same argument we heard back a few months ago when we were told that this bill will never pass the Senate, and it has or at least it will. We have talked about everything except the point at issue. And I think it is time that we focused in on the point at issue.

Mr. President, do you know what Mr. Justice Powell of the Supreme Court says about these kinds of remedies?

In Estes against Metropolitan Branches of Dallas NAACP located in volume 444 of the U.S. Reports, a 1979 case, he refers to judicial segregation as—

A haphazard exercise of equitable power that can—"like a loose cannon * * * inflict indiscriminate damage" on our schools and communities.

A loose cannon, Mr. Justice Powell compares to these remedies which inflict indiscriminate damage on our schools and communities. I do not blame my friends for not talking about this remedy that is like a loose cannon.

He goes on to say that and let me just quote several paragraphs from Mr. Justice Powell because it is such vivid language:

This Court has not considered seriously the relationship between the resegregation problem and desegregation decrees.

I am continuing the quote:

In a case involving a school district in Alabama, however, the Court of Appeals for the Fifth Circuit approves a plan "that will probably result in an all-black student body where nothing in the way of desegregation is accomplished and where neither the white students nor black students are benefited." Even though the court acknowledged that the remedy was self-defeating, it ordered the plan implemented.

What kind of a constitutional right is that? A right to inflict indiscriminate damage on the school system, not in my words but those of Mr. Justice Powell? A constitutional right to bus someone who refuses to go; what kind of a constitutional right is it to take a child in Rapides Parish, La., and order him to be bused for 35 miles against his will? What kind of lunacy is that, Mr. President?

Is that a constitutional right? Just where was that discovered in the Constitution? You can read the Constitution in vain for that. Indeed you can read the constitutional cases in vain to find the spirit that would impel this kind of a crazy conclusion.

"A loose cannon which inflicts indiscriminate damage." Those are not BENNETT JOHNSTON's words. Those are Mr. Justice Powell's words.

Do you want to know what the social scientists say about this thing? How about James J. Coleman? Everyone, I think, knows Mr. James J. Coleman who provided the basis for school busing in the first place and who was quoted by the courts at that time. Mr. Coleman reversed himself after having examined the facts and what we ought to be dealing with are the facts, the figures, and the evidence. He says, and I am quoting from the fall 1978 issue of Human Rights, volume 7.

Second, it was once assumed that integration—at least in majority middle class white

schools—would automatically improve the achievement of lower class black children. I hasten to say that it was research of my own doing that in part laid the basis for this assumption.

It turns out that school desegregation, as it has been carried out in American schools, does not generally bring achievement benefits to disadvantaged children.

Continuing the quote:

Third, it was once assumed that policies of radical school desegregation could be instituted, such as a busing order to create instant racial balance, and the resulting school populations would correspond to the assignments of children to the schools—no matter how much busing, no matter how many objections by parents to the school assignments.

It is now evident, despite the unwillingness of some to accept the fact, that there are extensive losses of white students from large central cities when desegregation occurs.

Mr. President, there is a reluctance, as Mr. Coleman says, an unwillingness to accept the facts. Why is that, Mr. President? I guess it is because so much psychic energy, so much sacrifice has gone into getting the courts to make these orders in the first place. There has been so much invested in terms of energy and effort that it is hard to face the fact that it has not worked.

None is too blind, Mr. President, as he who will not see. The evidence is irrefutable. It is so strong that my colleagues refuse, in spite of repeated challenges, to argue the issue of busing. Is busing good, is busing bad, does busing do more harm than good? Does busing actually, as Mr. Justice Powell says, inflict indiscriminate damage on communities and school systems like a loose cannon on the deck? Does it? He says it does. David J. Armor says it does. James J. Coleman says it does.

And who says it does not? No one says it does not. At least from the silence of my colleagues the fact of the failure of busing as an experiment to achieve desegregation is a fact proven on the floor of this Senate.

Now if that is so, Mr. President, let them say so. Let them admit it. I think their omission stands as a very loud admission on their part.

Mr. President, our governmental system is unique in the world in providing for a system of checks and balances and providing for a system of judicial review of the acts of Congress. This bill does nothing to affect the system of checks and balances nor the judicial review which has been the law of this land since the Supreme Court case of Marbury against Madison back almost two centuries ago.

Indeed, the right of anyone to challenge the legality of this act, if it does become an act—and I believe it will—will remain, and I expect that the Supreme Court will exercise jurisdiction to review the constitutionality of this act.

We do not attempt to take away the right of the Supreme Court to review the constitutionality of this act. They will have that right. I might add it is a right unique in the systems of government of the world.

In Britain, for example, that which the duly elected Parliament passes the courts may not throw out. The same thing is true in all the other civilized countries of the world, France, Italy, and others. All of the democracies of the world provide that when a duly elected legislature speaks the appointed courts may not throw out their actions. I do not make any such provision in this amendment.

It will be a case of judicial review under the principles of Marbury against Madison. I predict the court will uphold this act for all of the reasons I have stated.

Mr. President, let me say a word about what happens from here on.

The PRESIDING OFFICER. Does the Senator wish to yield himself additional time?

Mr. JOHNSTON. How much time is remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. JOHNSTON. I yield myself an additional 4 minutes.

Mr. President, after passage of this bill—this will be a Senate bill which will then go to the House of Representatives. I have a feeling of confidence, more than optimism, a feeling of confidence, that this bill, if voted on on the floor of the House of Representatives, will pass by a rather overwhelming margin.

The House is the body that does represent the people, and it is quite true, as I think everyone knows, that the people of this country have returned their verdict on the efficacy of busing as a remedy.

For a period of a decade the American public and public opinion poll after public opinion poll have expressed their opposition to busing by a margin of some 3 to 1. That margin had not changed in all of that decade.

For example, the recent NBC poll just a few week old, shows that while the people opposed busing by virtually 3 to 1 they also opposed discrimination in private schools on the issue of tax exemption by about 3 to 1 in the other direction. This is hardly an indication of an evolving incipient racism among the American people.

Quite the contrary. The American public is for desegregation, the American public is against discrimination by private schools which then get tax exemption. Those kinds of feelings of the American public have been manifested for many years, and they are consistent in the same polls that show they disapprove of busing.

No, Mr. President, the American public, like Mr. Justice Powell, recognize that busing is like a loose cannon inflicting indiscriminate damage on communities and public schools. That is why they disapproved of busing by a margin of 3 to 1. That is why the House of Representatives, representing the people, will, in my judgment, disapprove busing by a substantial margin if given that chance.

It is possible that this bill will be defeated in the House of Representatives. In my opinion, it will not be defeated because of a vote on the floor but it may be defeated by some trick of the rules, by some exercise of a power of eminent domain, if you will, taking the right of expression from the duly elected public body by an exercise of raw, unbridled power by someone in authority.

I do not say that that will be done. I simply recognize that it may be done, it may be attempted to be done.

I might say that those of us on this side of the issue are not without resources in preventing that from being done.

I hope, and I will invite my House colleagues to give this issue a proper airing, to give this issue a proper consideration. The issue has been around a long time, Mr. President. The evidence is in, and I think it is overwhelming, and certainly on the floor of this Senate it has been uncontradicted. It deserves a fair and proper hearing. I hope and trust that it will have such a fair and proper hearing. If it does I have no doubt or I have no serious doubt that we will win and win overwhelmingly.

After all, the so-called Collins amendment, which was similar to the Helms amendment, passed in the House by a margin of some 2 to 1, and it is my judgment that we would pass this amendment by a similar margin.

To fail to give that kind of hearing, that kind of vote on the floor of the House, would be, as I say, a raw arrogation of power. If there would be anything that constituted tyranny, that constituted something inconsistent with a free, elected legislative body exercising its power, to deny a vote on this issue would be the example of tyranny.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. How much additional time do I have?

The PRESIDING OFFICER. Three and one-half minutes.

Mr. JOHNSTON. I yield 1 additional minute.

Mr. President, I make these comments not in expectation that that will happen, but to implore the House of Representatives to fairly and properly consider this measure when it reaches the floor of the House of Representatives.

We are coming rapidly to a close on this issue. It has been a long and difficult process that started by my intro-

duction of S. 528 on February 4, 1981. It has been here on the floor of the Senate since June. As I say, in all of that time busing has not been defended. The verdict is in by the American public, by the social scientists and the educators, and come 12 noon today the verdict will be in in the U.S. Senate.

That verdict very loudly and clearly says that busing does not work. That verdict says "Let us now do away with a failed remedy and go on to that which is really important," and that is finding the best way not only to desegregate our schools but to provide for a quality public education for all of our children.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, the Senate has been debating the Johnston-Helms amendment to the Department of Justice authorizations bill for 33 weeks now. I have consistently voted against the amendment, and I will continue to vote against such proposals to abolish or restrict Federal court jurisdiction as they are presented. It is my firm belief that these measures are of doubtful constitutionality and very bad policy. My votes against the continuation of the filibuster on the bill, once the Senate had voted to cut off debate, are not an indication that I have changed my views on the amendment.

I am concerned that the jurisdiction restrictions imposed by the Johnston-Helms amendment, and the other court restriction proposals awaiting action by Congress, seriously threaten the independence of our Federal Judiciary.

Our system of separation of powers carefully allocates governmental powers among the three branches, and entrusts to the Judiciary the responsibility for interpreting the Constitution and the laws passed by Congress. I view these jurisdiction-stripping proposals as unacceptable and dangerous incursions into the powers and prerogatives of our Nation's courts.

The genius of the system of Government devised by our Forefathers is the orderly method of change embodied in our Constitution. For those who disagree with the courts, the amendment process in article V provides the proper means of altering constitutional law. The Johnston-Helms amendment is an attempt to circumvent that process. To embark upon the course advocated by proponents of such jurisdiction restrictions is to begin the process by which many more of our constitutional rights may eventually be eroded or eliminated. Irrespective of how we feel about the underlying social issues which are the subject of these various legislative proposals, we must not take this first step.

Mr. President, I wish to insert in the RECORD at this time a memorandum from the Illinois State Bar Association expressing its opposition to the enactment of any bill limiting the original or appellate jurisdiction of the U.S. Supreme Court and inferior Federal courts to hear and decide Federal constitutional questions.

There being no objection, the material was printed in the RECORD as follows:

ILLINOIS STATE
BAR ASSOCIATION,
*February, 1982.*

Re: Jurisdiction of the United States Supreme Court and other Federal Courts.

The Board of Governors of the Illinois State Bar Association at a meeting of February 5-6, 1982, unanimously and strongly reasserted its frequently stated position that it opposes the many congressional proposals that seek to limit the appellate jurisdiction of the United States Supreme Court and the jurisdiction of inferior federal courts to hear and decide federal constitutional questions.

The various legislative proposals which would seek to limit court authority arise from displeasure over court decisions involving, for example, school busing, abortion rights and sexual equality issues, if you will, that are admittedly emotional. It must be recognized that responsible courts should follow the mandates of the Constitution which established not only the fundamental rights and freedoms to be enjoyed throughout the nation, but which established the co-equal branches of government as to check and balance on each. To succumb to various personal or political expediencies would be most unfortunate. Moreover, any effort to upset this delicate structure which has worked well for over two centuries despite occasional public outcries against each of the branches of government would likely change the form of government to the peril of those who support reform as well as those who oppose it.

As Robert M. Landis, President of the Pennsylvania Bar Association, stated in an address to the Judicial Conference of the 10th Judicial Circuit in September, 1981:

"Tampering with this fundamental responsibility as a political expedient to satisfy popular opposition to Supreme Court decisions is a treacherous legislative experiment. It challenges the spirit of the Constitution. Its legitimacy is suspect. Its invitation to vagrant, disparate constitutional interpretations among the high courts of the fifty states could fragment the integrity of the Constitution that has bound this nation for nearly two hundred years into a coherent legal establishment."

The statement well summarizes the position of the membership of 27,000 of the Illinois State Bar Association. We would urge that you and all members of Congress from Illinois aggressively resist legislative proposals to curtail federal court powers or appellate jurisdiction.

Mr. DODD. Mr. President, I oppose the Johnston amendment. It would, in my judgment, be a dangerous and unprecedented step by Congress. It would mark the first time we have tried to limit the jurisdiction of the Federal Judiciary in order to reverse the actions the courts have taken to protect the constitutional rights of Americans. Let me explain why I view this amendment as a threat to the Constitution and why I feel that is so dangerous.

For almost two centuries, the American Constitution has been one of the true wonders of Western civilization. Citizens of other nations have been as quick as our own countrymen to make that judgment. The British Statesman Gladstone's comment that it is "the most wonderful work ever struck off at a given time by the brain and purpose of man" typifies the general verdict.

The essence of the greatness of our Constitution has been its paradoxical ability to match steadfast dedication to timeless principles with flexible application to changing circumstances. Since the first decade of the 19th century we have relied on the judicial branch of Government to preserve those principles and adapt them to the changing nature of our society and its problems.

Precisely because of our devotion to the Constitution, we have deliberately insulated the judiciary from political pressure. Precisely because of our dedication to the Constitution, we have insulated it from facile change. The process for amending the Constitution is cumbersome. It is time-consuming. It is difficult. It is all three purposefully and for very good reason * * * and we short-circuit that process only at our peril.

That is why I feel so strongly that the current amendment is dangerous to our tradition.

It is not questioned that courts have ordered busing in fulfillment of their time-honored role to protect the constitutional rights of Americans.

It is similarly not subject to real argument that the purpose of the amendment to this bill limiting court-ordered busing for school desegregation is to accomplish a constitutional change in an efficient, prompt, and relatively easy manner.

To allow that to happen would be, in my judgment, a very bad precedent.

The threat may seem less than deadly because it is limited in scope to a fairly specific—and, in many cases, unpopular—remedy. But if it goes unchallenged here, there is no reason why future Congresses cannot renew it in far more lethal and wide ranging ways.

If a momentary majority can rule that courts may not order busing, why cannot 50 percent plus 1 pass a law that courts cannot protect freedom of speech from legislative encroachment?

I might note parenthetically that this is the same danger that inheres in current legislative proposals to define the word "life" in the 14th amendment.

If we can define, by majority vote, life to include embryonic life, the same logic impels us to allow 50 percent plus 1 to define the freedom of worship

guaranteed by the first amendment as excluding some religions.

The constitutional prescription that amendments receive the approval of two-thirds of each House of Congress and three-fourths of the States is resistent to prompt alteration, but if our most cherished personal liberties are to mean anything to us, it is essential.

There are two questions we should ask in addressing this issue: First, can Congress validly enact this amendment? Second, should Congress so act?

On the first question, I do not presume to speak as an authority on consitutional history or theory. I doubt that many Senators, frankly, have had the time to parse the court decisions which may touch on this question, let alone read the scholarly articles on the meaning of the relevant language of article III of the Constitution.

But all of us swear an oath to uphold to the best of our ability the Constitution of the United States. Part of our responsibility in casting any vote is to exercise our best judgment on how the legislation honors or offends the spirit and letter of the Constitution. In this case, I believe that the amendment attached to this legislation is, at best, of dubious constitutionality.

There is general agreement that article III of the Constitution grants broad power over Federal court jurisdiction to the Congress. Congress is granted the power to "ordain and establish" inferior Federal courts as it sees fit. In addition, the appellate jurisdiction of the Supreme Court is made subject to "such exceptions and under such regulations as the Congress shall make." This language supports the authority of Congress to add or subtract from the jurisdiction of the Federal courts according to its collective wisdom. As one scholar put it, it is difficult to find in the language or history of article III alone an argument for finding "quantitative" limits on congressional power in this area.

At the same time, the text of the Constitution provides that a wide range of rights and liberties be guaranteed to all Americans. And nearly two centuries of constitutional history have vested the courts with the responsibility for interpreting and safeguarding those benefits of citizenship.

If there is a collision between the congressional power over court jurisdiction and judicial responsibility for individual rights, I believe the latter must take precedence. A full explanation of that judgment involves an unfolding of constitutional doctrine and theory and an analysis of a number of court decisions. I do not propose to elaborate all of that here. But I do believe that argument has been made persuasively and compellingly by Prof. Telford Taylor of Columbia Law School in an article in the October 1981 issue of Judicature. I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Judicature, No. 4, Oct. 1981]

LIMITING FEDERAL COURT JURISDICTION: THE UNCONSTITUTIONALITY OF CURRENT LEGISLATIVE PROPOSALS

(By Telford Taylor)

(NOTE.—This article has been adapted from testimony that the author gave before the Subcommittee on the Constitution of the Judiciary Committee of the U.S. Senate on May 20, 1981; and before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary of the U.S. House of Representatives on June 3, 1981.)

There are a number of pending bills in both the House of Representatives and the Senate that withdraw federal court jurisdiction in a variety of ways. In my view most of these bills, if enacted into law, would be unconstitutional.

My opposition to the jurisdictional provisions of these bills is not based upon a narrow view of congressional power in this field. The Supreme Court has explicitly recognized that Congress has "plenary control over the jurisdiction of the federal courts." [1] This is in accord with the history and language of Article III of the Constitution, Section 1 of which vests the judicial power in the Supreme Court "and in such inferior Courts as the Congress may from time to time ordain and establish." It is generally understood that this wording embodied a compromise between those framers of the Constitution who favored and those who opposed establishment of a federal court system. Thus the decision between the two alternatives was not mandated by the Constitution itself, and it was left up to Congress to handle by statute.

It thus appears that it would have been entirely constitutional for Congress to establish no "inferior" federal courts at all. And although the First Congress did in fact establish the district and circuit courts, the First Judiciary Act (1789) gave them a range of jurisdiction that by today's standards was very narrow.

Accordingly, if we were to look to the intentions of the framers, Congress could constitutionally conclude and legislate extensive curtailment, or even abolition, of inferior federal court jurisdiction. Of course, from a practical standpoint, a decision not to create inferior federal courts in 1789 would have been quite different from a decision to abolish them in 1981, after we have had federal courts for nearly two centuries, and after more than a century during which they have become a major part of the nation's judicial machinery. These practical considerations have led one commentator to conclude that: "Abolition of the lower federal courts is no longer constitutionally permissible. . . . the jurisdiction of these courts is not a matter solely within the discretion of Congress." [2]

While I think all would agree that today the abolition of the lower federal courts or deep inroads into their jurisdiction would be extremely unwise and indeed destructively revolutionary, these bills quantitatively effect a very limited withdrawal. My opposition to them, and my conclusion that they are unconstitutional, does not rest on the proposition that there are quantitative constitutional limits on congressional power over inferior federal court jurisdiction. That power is, as stated by the Supreme Court, "plenary," like, for example, congressional power to regulate interstate commerce.

INDEPENDENCE OF THE SUPREME COURT

Unlike the lower federal courts, whose existence is dependent on congressional creation, the Supreme Court is the creature of the Constitution itself. The Constitution (Article III, Section 2, second paragraph) also specifies the Supreme Court's original jurisdiction, which Congress is powerless to alter, and endows the Court with appellate jurisdiction "both as to Law and Fact, with such exceptions, and under such Regulations as Congress shall make."

Because of the striking and plainly intentional differences in wording between the provisions dealing with the lower federal courts and those dealing with the Supreme Court, I do not think that congressional power over the Supreme Court's appellate jurisdiction can properly be described as "plenary" in the sense that the power over lower federal court jurisdiction is "plenary." The power to "regulate" assumes a corpus of appellate jurisdiction to be regulated; the power to make exceptions assumes such a corpus from which there can be subtraction.

Furthermore, there is structural interlocking between sections 1 and 2 of Article III. If Congress should choose under Section 1 to create no lower federal courts, all federal issues, constitutional and statutory, would be resolved in the state courts; a failure to provide for review of their decisions in the Supreme Court would leave that Court with nothing but very limited original jurisdiction and would confront the nation with the probability of disparate federal law among the several states. And in fact the First Judiciary Act gave the lower federal courts no general jurisdiction over federal questions and therefore provided for Supreme Court review of state court decisions on federal questions.

In short, while the framers of the Constitution contemplated the possibility of no lower federal courts whatever, I do not think it conceivable that they contemplated the possibility of no Supreme Court appellate jurisdiction whatever. Were Congress to enact a law totally abolishing the Supreme Court's appellate jurisdiction, I believe it would be unconstitutional.

The difficulty, of course, is that the Constitution does not specify any standard limiting the so-called "exceptions and regulations" clause. The problem is not unique to that clause. Since the First Judiciary Act, Congress has specified the dates of Supreme Court terms, then fixed at two per year, in February and August. During the constitutional crisis of President Jefferson's first year in office, Congress eliminated the August term. Doubts were expressed about the constitutionality of that change, but the issue was not litigated. Suppose, however, that Congress should provide for only one term every 10 years. Like a total abolition of appellate jurisdiction, I believe such a measure would be unconstitutional, but, once again, how are we to draw a line?

Learned commentators have suggested such formulations as that Congress must not exercise its powers under Article III in such a way "as will destroy the essential role of the Supreme Court in the constitutional plan." That is a commendable principle, but fortunately the Supreme Court has never had occasion to articulate it or any-

Footnotes at end of article.

thing like it, since or over the years, Congress has acted with due restraint.

Equally fortunately, we do not need to wrestle with this particular dilemma in appraising the constitutionality of the several bills that are now the focus of discussion. In quantitative terms, none of them significantly impairs federal jurisdiction in either the Supreme Court or the lower courts. It is indeed the very particularity of these bills that accounts for what I believe to be the constitutional flaw in all of them, whether they relate to the jurisdiction of the lower federal courts, or the Supreme Court or of both.

LIMITS TO CONGRESSIONAL POWER

To say that congressional power over federal court jurisdiction is "plenary" does not mean that it is immune from the general limitations on congressional power found elsewhere in the Constitution, including the several amendments. Congress specifies the jurisdiction by enacting statutes, and those statutes are no more immune from constitutional scrutiny than any others.

The congressional power over interstate commerce is so ample that, despite the enormous proliferation of federal legislation, not since 1936 has a federal regulation of commerce been held unconstitutional. Yet nothing is better settled than that this power is subject to consitutional limitations such as the First Amendment and the due process clause of the Fifth Amendment. Were Congress to enact statutes forbidding interstate transportation of literature reflecting a particular political persuasion, or goods owned by members of a particular race or adherents of a religion, these statutes would undeniably be regulations of interstate commerce, but they would be constitutionally invalid under the First or Fifth Amendments.

The same principle applies to the exercise of congressional power under Article III. A statute withdrawing from the federal courts jurisdiction to issue injunctions at the suit of individuals identified with particular political, racial or religious groups would be manifestly unconstitutional under those same amendments.

These conclusions, I believe, follow inevitably from the language and structure of the Constitution.[3] That there are few precedents in the jurisdictional field is, therefore, hardly surprising. But sufficient precedent is not lacking, for the foregoing conclusions are amply and explicitly supported by the decision in *United States v. Klein.*[4] In that case, the Court of Claims had been given jurisdiction to determine, subject to Supreme Court review, claims to recover property taken by military action during the War Between the States. Some claimants had been adherents of the Confederacy, but had taken amnesty oaths pursuant to President Lincoln's pardon proclamation. With the purpose of barring such claimants from recovery, Congress in 1870 passed a statute which provided that, if in any such case the claimant relied upon a presidential pardon as proof of elibility, the Court of Claims or the Supreme Court (as the case might be) should have no further jurisdiction and should dismiss the claims for want of jurisdiction.

In the *Klein* case, involving such a claim, the Supreme Court held the 1870 statute unconstitutional, saying that it was not "an exercise of the acknowledged power of Congress" over the Supreme Court's appellate jurisdiction. Two reasons were given of which one, directly relevant here, was that the statute impaired the effect of a pardon, and thus infringed the President's constitutional power under Article II, Section 2 to "grant Reprieves and Pardons for Offenses against the United States." The fact that the 1870 statute was phrased in jurisdictional terms made no difference, since its effect was beyond the power of Congress and violated Section 2 of Article II.

Accordingly, the requirement that statutes enacted by Congress under its Article III powers conform to general constitutional limitations is clearly established, both under the language and structure of the Constitution and as a matter of decisional precedent. The immediate question is whether the several bills with which we are presently concerned can survive such constitutional scrutiny. For the reasons given herein after, I believe they cannot.

H.R. 900 AND OTHER BILLS

The currently pending bills withdrawing jurisdiction vary widely in subject matter and in the breadth of the withdrawal. Some withdraw jurisdiction only from the lower federal courts, some from the Supreme Court as well. Some withdraw all cases relating in any way to a particular constitutional right, others withdraw the power to use injunctions or declaratory judgments in such cases.

All the bills, as far as I know, share in common the feature that they single out particular constitutional rights and confine their application to cases dealing with that right. Thus, some of the bills deal with rights guaranteed by the establishment clause of the First Amendment relating to school prayers, some with busing or other remedies pertaining to school desegregation, others with equal protection rights affected by the male-only draft registration, and still others with women's abortion choice rights under the due process clause, as recognized by the Supreme Court in *Roe* v. *Wade.*

A good example of the general tenor of these bills is H.R. 900, Section 2 of which would withdraw from the lower federal courts jurisdiction to issue injunctions or declaratory judgments in any case involving a state statute that limits women's abortion rights. Like the statute of 1870 involved in the *Klein* case, Section 2 of H.R. 900 is a limitation on federal court jurisdiction. But just as the purpose and effect of the 1870 statute was substantive—i.e., to nullify the effect of a presidential pardon on war property claims—so the purpose and effect of Section 2 of H.R. 900 is substantive—i.e., to make it more difficult for individuals to secure their constitutional rights recognized in *Roe* v. *Wade.* In neither case is the purpose constitutionally permissible.

Now, of course, I am aware of the many cases in which the Supreme Court has declared and applied the rule that the constitutionality of a statute must be determined on its face, and without inquiry into motives or purposes that underlie the enactment.[5] For example, a law prohibiting anyone other than a lawyer from engaging in debt-adjusting will be upheld if a rational and legitimate purpose can be conceived, without going behind the face of the statute to determine whether or not the actual legislative motive was to confer financial benefits on lawyers—a motive by which legislators, many of whom are lawyers, might be governed.[6]

But there are well-recognized exceptions to that principle.[7] Perhaps the most important one involves the equal protection clause of the Fourteenth Amendment. For many years the Supreme Court has declared the rule that the unequal impact of a statute is not enough to establish a violation of the equal protection clause; there must be a governmental purpose to discriminate.[8] And it is equally well settled that in equal protection cases the courts are not limited to an examination of the statute on its face.[9] Indeed, the inequality of impact may be so great that a purpose to discriminate may be inferred from that circumstance alone,[10] even though the statute is not discriminatory on its face.

Finally, and perhaps most important for present purposes, the Court has held that a statute which does not on its face articulate an unlawful purpose, may, because of its language and the context in which it is enacted, disclose on its face an unlawful purpose and an inevitable unlawful effect.[11]

GOMILLION V. LIGHTFOOT

Relevant here is Gomillion v. Lightfoot involving an Alabama statute enacted in 1957 that changed the boundaries of the City of Tuskegee from a square to what the Supreme Court described as "a strangely irregular twenty-eight-sided figure."[12] The complainants, black citizens living within the square boundaries, sought in the federal courts a declaratory judgment that the statute was unconstitutional, alleging that its "essential inevitable effect" would be "to remove from the city all save only four or five of its 400 Negro voters while not removing a single white voter or resident."

The lower federal courts dismissed the action on the ground that they had no power to review the Alabama legislature's action. The Supreme Court unanimously reversed that judgment, holding that upon the facts alleged the statute violated the Fifteenth Amendment since ". . . the conclusion would be irresistible, tantamount for all practical purposes to a mathematical demonstration, that the legislation is solely concerned with segregating white and colored voters by fencing Negro citizens out of town so as to deprive them of their pre-existing municipal vote."

I believe that the relevance of *Gomillion* to the issue at hand here is obvious. The power of the Alabama legislature over municipal districting was recognized by the Supreme Court as having "breadth and importance,"[13] just as congressional power under Section 1 of Article III should be so recognized. The Alabama statute did not explicitly disfavor black residents of Tuskegee, but the boundaries drawn made clear its unconstitutional purpose and effect. Section 2 of H.R. 900 does not explicitly avow an unconstitutional purpose, but such a purpose is nonetheless manifest, from both its text and its context.

To be sure, the constitutional rights involved are not the same. The *Gomillion* case involved the voting rights protected by the Fifteenth Amendment or, as Justice Whittaker thought,[14] the equal protection clause of the Fourteenth Amendment. That clause is not irrelevant to the scrutiny of H.R. 900, but the constitutional rights recognized in *Roe* v. *Wade* are, under the Court's opinion, based on the concept of personal liberty embodied in the due process clause. These rights the court declared to be "fundamental," and "broad enough to encompass a woman's decision whether or not to terminate her pregnancy."[15] Certainly they are constitutionally entitled to as much protection as those involved in the *Gomillion* and *Grosjean* cases.

UNCONSTITUTIONAL PURPOSE

Plainly H.R. 900, including Section 2, is intended to prevent if possible, and at least to

obstruct, fulfillment of the rights recognized in *Roe* v. *Wade*. Indeed, the sponsors of these bills have been commendably frank in acknowledging that purpose.

But it is quite unnecessary to rely on such statements by the bills' sponsors, and my conclusion that Section 2 is unconstitutional is based squarely on the text of the bill itself. For it is impossible to conceive of any jurisdictional considerations to which the bill is relevant. There are, to be sure, a number of litigations involving the performance of abortions pending in the federal courts, but they constitute only an infinitesimal part of the total volume of federal court litigation. Thus the bill cannot reasonably be regarded as intended to reduce the burdens on the federal courts.

Cases involving the federal constitutionality of state laws are, to be sure, very numerous in both state and federal courts. A view could be advanced that since state laws are involved, their validity should be first passed upon in the state courts. Of course, that would throw on the Supreme Court the entire burden of ensuring uniformity among the states of the standards of constitutional validity, and I do not think such a course would commend itself as a matter of policy. But recognizing that such a decision is within the ambit of congressional power, H.R. 900 accomplishes this only with respect to injunction and declaratory judgment actions involving the particular rights recognized in Roe v. Wade. It cannot reasonably be contended that so singular a change is reasonably related to a general jurisdictional purpose. Nor do abortion litigations present any features that explain singling them out from other rights similarly derived from the Fifth or Fourteenth Amendments for exclusion from the federal courts.

The conclusion is inescapable, on the face of the bill, that its only purpose and its inevitable effect are to obstruct the judicial protection of the constitutional rights recognized in Roe v. Wade. Such purpose and effect, in the absence of a compelling state interest, are unconstitutional: "It is well settled that, quite apart from the guarantee of equal protection, if a law 'impinges upon a fundamental right secured by the Constitution [it] is presumptively unconstitutional.'"[16]

I should add, though it may be unnecessary, that Section 2 of H.R. 900 also violates the principle of equal protection of the laws, which has been held to be embodied in the due process clause of the Fifth Amendment, and is therefore binding on the federal government as well as the states.[17] For the jurisdictional withdrawal in Section 2 singles out pregnant women, whose rights are protected by Roe v. Wade, as a group subjected to a denial of access to the federal courts. There is no conceivable state interest which warrants subjecting them to deprivation of access to the federal courts equal to that enjoyed by those seeking to protect comparable constitutional rights.

PAST JURISDICTION BILLS

There remains to be considered the question whether there are precedents, legislative or judicial, which might justify the jurisdictional withdrawal attempted by Section 2 of H.R. 900. Its acknowledged purpose is not novel. The Supreme Court must, in the nature of things, deal with issues that arouse strong political, social and religious feelings. Some of its decisions are bound to antagonize individuals and even large groups of people who believe with deep sincerity that what the Court has done is very wrong, but who also realize that the prospect of undoing its work by the method prescribed in the Constitution—i.e., by amendment pursuant to Article V—is remote. The device of completely or partially nullifying a Court decision by withdrawing from the courts jurisdiction to enforce it, has been used in many bills introduced in Congress on many occasions.

Constitutional scholars tell us that between 1953 and 1968 over 60 bills were introduced in Congress to eliminate the jurisdiction of the federal courts over a variety of particular subjects.[18] That is not surprising, since those years witnessed a number of Supreme Court decisions that were sharply denounced, both within and outside of Congress. What is surprising, in view of the heat generated, is that not one of those bills was enacted into law. Congress as a whole has exhibited a most commendable restraint in this regard, realizing no doubt that this is a dangerous game which can be played at both ends of the spectrum, and that if such devices begin to take hold as statutes, the ultimate result will not be to ensure the dominance of a particular point of view, but to alter radically the long-established relation and balance among the legislative, executive and judicial departments.

In consequence of this enduring Congressional restraint, the statutory and judicial examples that are somewhat comparable to H.R. 900 are very few, and there are only three that I think warrant comment.

First there is the Norris-LaGuardia Act (1932).[19] I deal with this statute first, not only because it is the earliest chronologically, but also because some of the language of Section 2 of H.R. 900 appears to be derived from it.

The Norris-LaGuardia Act arose out of the belief, shared by leaders of both the Republican and Democratic parties, that there had been abuses in the issuance of injunctions in labor disputes.[20] Section 1 of the Act provides:

"No court of the United States . . . shall have jurisidiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in strict conformity with the provisions of this chapter; nor shall any such restraining order or temporary injunction be issued contrary to the public policy declared in this chapter."

Note that, unlike Section 2 of H.R. 900, the Norris-LaGuardia Act does not wholly withdraw the jurisdiction to issue the specified injunctions to issue the specified injunctions. Section 2 declares a public policy of freedom for workers to associate and organize for collective bargaining and other labor ends; sections 4 and 5 specify certain findings that the courts must make and procedures they must follow before issuing injunctions.

None of these provisions involved infringement of constitutional rights, and Congress' power to regulate and limit the remedies (including injunctions) available to litigants in the lower federal courts (in the absence of such infringements) had never been seriously questioned. When a case (*Lauf*) arose wherein a lower federal court has issued an injunction on the basis that the case did not involve a "labor dispute" as defined in the Act, the Supreme Court, in reversing that decision, gave general approval to the Act's jurisdictional limitations: "There can be no question of the power of Congress thus to define and limit the jurisdiction of the inferior courts of the United States."[21]

But the *Lauf* case did not concern other provisions of the Norris-LaGuardia Act which (Section 3) declare "yellow dog contracts" (i.e. employment agreements conditioned on the employee's undertaking not to join a union) to be "contrary to the public policy of the United States" and "not . . . enforceable in any court of the United States," and (Section 4(b)) withdraw from the federal courts jurisdiction to enforce such contracts. Many years earlier the Supreme Court had invalidated, as violations of due process, both federal and state statutes outlawing "yellow dog" contracts.[22] Thereafter the Supreme Court also held state legislation limiting employers' rights to state court injunctions against striking employees to be invalid under the due process and equal protection clauses.[23]

None of these decisions had been formally overruled at the time the Norris-LaGuardia Act was adopted, and it was certainly arguable that sections 3 and 4(b) were unconstitutional, insofar as they rendered "yellow dog" contracts unenforceable in, and outside the jurisdiction of, the federal courts. In all probability it was such doubts that led Congress to provide for the withdrawal of injunctive jurisdiction, guided by a memorandum from (then Professor) Felix Frankfurter stressing the scope of Congressional power over federal court jurisdiction.[24]

The constitutional validity of sections 3 and 4(b) of the Norris-LaGuardia Act was never judicially tested, no doubt because the Act's importance was greatly diminished by passage of the National Labor Relations Act in 1936. The *Adair* and *Coppage* cases invalidating laws against yellow dog contracts[25] were not explicitly over-ruled until 1941.[26] But they were in poor constitutional health as early as 1930, when the Court unanimously upheld the Railway Labor Act of 1926, in an opinion by Chief Justice Hughes (who had dissented in the *Coppage* case), which distinguished the *Adair* and *Coppage* cases in casual and unconvincing fashion.[27] And of course, if those cases were no longer governing in 1932, the constitutional rights they declared had likewise withered, and the jurisdictional withdrawal in Section 4(b) of the Norris-LaGuardia Act impaired no such rights.

For all these reasons, I do not believe that the Norris-LaGuardia example offers any substantial support to the constitutionality of Section 2 of H.R. 900.

LIMITING JURISDICTION IN WARTIME

The Emergency Price Control Act of 1942 is a second example. This statute, enacted under the pressures of wartime, contained provisions narrowly channeling federal court jurisdiction to review orders and regulations of the Price Administrator in order to secure rapid and uniform enforcement of wartime price controls. An "Emergency Court of Appeals," composed of three federal district or circuit judges, was established to hear and determine such cases, subject to review by certiorari in the Supreme Court. All other courts, both federal and state, were denied jurisdiction to pass on the validity of the Administrator's acts, with certain specified exceptions.

Whether the prohibitions running to the state courts were ever judicially reviewed, I do not know; state court obligation to entertain damage suits for violation of price ceilings was confirmed in *Testa v. Katt*.[28] The withdrawals of jurisdiction from the federal district and circuit courts were sustained.[29]

The statutory feature most susceptible to constitutional challenge was the denial to the Emrgency Court of any power to grant interim relief, by temporary restraining

order or injunction. This provision was upheld in *Yakus v. U.S.*, not as a general proposition but only "in the circumstances of this case," meaning the war emergency.[30] If the alternatives, as Congress concluded, were wartime inflation or the imposition on individuals of the burden of complying with a price regulation while its validity is being determined, Congress could constitutionally make the choice in favor of the protection of the public interest from the dangers of inflation."

There is no such emergent and compelling public interest to be invoked in support of the denial of federal injunctive relief in abortion litigation. Abortion cases, on the contrary, are of a nature that especially requires the availability of interim protection; the pregnant woman can hardly be required to comply with an anti-abortion statute while its constitutional validity is being determined.

The price control statutes and decisions, born as they were of the urgent necessities of wartime, thus offer no support to the jurisdictional withdrawal attempted by H.R. 900.

The Portal-to-Portal Act of 1947 is a final example.[31] In decisions rendered between 1944 and 1946, the Supreme Court construed the "work week" clause of the Fair Labor Standards Act of 1938 as including underground travel time in mines. Time so spent had not theretofore been generally treated as compensable, and these decisions precipitated a flood of litigation embracing claims for back pay totalling over $5 billion, including claims against the United States totalling more than $1.5 billion. Congress than enacted the Portal-to-Portal Act of 1947, in which Congress found that such unexpected retroactive liabilities threatened financial ruin to many employers and serious consequences to the federal Treasury. To avoid these hazards, the Act not only wiped out the liabilities, but also withdrew jurisdiction to adjudicate such claims from all federal and state courts without exception.

In the numerous litigations that ensued, it was contended that congressional nullification of these claims destroyed vested rights in violation of the Fifth Amendment. The courts uniformly rejected this contention, but most of them took jurisdiction and decided the cases on the substantive merits, despite the attempted withdrawal of jurisdiction. Thus a distinguished panel of judges in the Court of Appeals for the Second Circuit wrote in *Battaglia* v. *General Motors Corp.*[32]

"A few of the district court decisions sustaining . . . the Portal-to-Portal Act have done so on the ground that since jurisdiction of federal courts other than the Supreme Court is conferred by Congress, it may at the will of Congress be taken away in whole or in part. . . . We think however, that the exercise by Congress of its control over jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment. That is to say, while Congress has the undoubted power to give, withhold, and restrict the jurisdiction of courts other than the Supreme Court, it must not so exercise that power as to deprive any person of life, liberty, or property without due process of law, or to take private property without just compensation [citing cases]. . . ."

That decision and the passage quoted squarely support the position I am taking here. Just as in the Portal-to-Portal Act, Section 2 has been included in H.R. 900 for the sole purpose of blocking judicial review of Section 1 thereof, And since Section 1 seeks to achieve ends which are unconstitutional under the Fifth Amendment, as was established in *Roe* v. *Wade*, Section 2 is itself in violation of the Fifth Amendment.

I should deal with one further matter. The Portal-to-Portal Act sought to close off access to all courts, state and federal alike, while both the Norris-LaGuardia Act and Section 2 of H.R. 900 leave access to the state courts untouched. Although the *Battaglia* court did not rest its decision on that circumstance, it is the view of some constitutional scholars that this difference is crucial, and that would-be litigants barred by Congress from access to the federal courts have no basis for complaint if the state courts remain open to them.

It is hard for me to take this argument seriously. The fact that a statutory withdrawal of jurisdiction is limited to the federal courts certainly does not immunize that statute from constitutional scrutiny. It cannot be seriously contended that a statute limiting federal court access to white litigants could be sustained on the ground that the suits of black litigants could be determined in the state courts.

This does not mean that continued access to the state courts may not in some circumstances be a relevant constitutional factor. If a substantial government interest is asserted as the basis for denying federal jurisdiction, and that interest must be weighed against the disadvantage to litigants, the fact that the state courts remain available may well tip the scales in favor of the withdrawal. In all three of the instances of withdrawal discussed above, such interests were credibly asserted. But no such interests are or can be credibly invoked in support of Section 2 of H.R. 900, which shows on its face that its only purpose is to chill and obstruct the vindication of constitutional rights.

In theory, if not in practice, Congress has power to repeal the 1875 legislation which gave the federal courts general jurisdiction in cases arising under the Constitution and laws of the United States. But having conferred such general jurisdiction, Congress must have a constitutional basis for making exceptions to it, and the fact that the state courts may be available is but one factor for consideration. With regard to Section 2 of H.R. 900, I believe it is of no weight, since no valid purpose of the withdrawal is invoked.

For all the reasons given, it is my opinion that Section 2 of H.R. 900 is unconstitutional. The same reasons would apply equally to bills excepting from the Supreme Court's appellate jurisdiction the cases covered by H.R. 900. And these reasons would apply equally to those bills which limit federal court jurisdiction to vindicate other constitutional rights as recognized by the Supreme Court.

FOOTNOTES

[1] Bro. of R. Trainmen v. Toledo, P. & W. R. Co., 321 U.S. 50, 63-64 (1944).

[2] Eisenberg, *Congressional Authority to Restrict Lower Federal Court Jurisdiction*, 83 Yale L. J. 498 (1974).

[3] *See* Louisville Joint Stock Land Bank v. Radford, 295 U.S. 555, 589 (1935): "The bankruptcy power, like the other great substantive powers, is subject to the Fifth Amendment."

[4] 13 Wall. 128 (1872).

[5] *See, e.g.*, McCray v. United States, 195 U.S. 27, 56 (1904); Arizona v. California, 283 U.S. 423, 455 (1931); United States v. Darby, 312 U.S. 100, 113-14 (1941); Fleming v. Nestor, 363 U.S. 603, 617 (1960); United States v. O'Brien, 391 U.S. 362, 382-86 (1968).

[6] Ferguson v. Skrupa, 372 U.S. 726 (1963).

[7] *See* U.S. v. O'Brien, *supra* n. 5, at 383 n. 30; Ely, *Legislative and Administrative Motivation in Constitutional Law*, 79 Yale L. J. 1205 (1970).

[8] Snowden v. Hughes, 321 U.S. 1 (1944); Keyes v. School Dist. 413 U.S. 189 (1973); Washington v. Davis, 426 U.S. 229 (1976); Arlington Heights v. Metropolitan Hous. Corp. 429 U.S. 252 (1977); Mobile v. Bolden, 446 U.S. 55 (1980).

[9] Loving v. Virginia, 388 U.S. 1 (1967); Green v. County School Bd. 398 U.S. 430 (1968); Columbus Bd. of Educ. v. Penick 443 U.S. 229 (1979).

[10] Yick Wo v. Hopkins, 118 U.S. 356 (1886); *See also* Washington v. Davis, *supra* n. 8, at 253-54 (Stevens, J.P., concurring).

[11] Grosjean v. American Press Co., 297 U.S. 233 (1936); Gomillion v. Lightfoot, 364 U.S. 339 (1960).

[12] Gomillion, *supra* n. 11, at 341.

[13] *Id.*, at 342.

[14] *Id.*, at 349.

[15] Roe v. Wade, 410 U.S. 113, 153 (1973).

[16] Harris v. McRae, 448 U.S. 297, 65 L. Ed. 2d 784, 801 (1980); Mobile v. Bolden, *supra* n. 8, at 76; San Antonio School Dist. v. Rodriguez, 411 U.S. 1, 17, 31 (1973); Shapiro v. Thompson 394 U.S. 618, 634 (1969).

[17] Bolling v. Sharpe, 347 U.S. 492 (1954).

[18] Hart and Wechsler, The Federal Courts and the Federal System 360 (St. Paul: West, 2nd ed. 1973).

[19] 29 U.S.C. Secs. 101-115.

[20] S. Rep. No. 163, H.R. Rep. No. 669, 72d Cong., 1st Sess.; Frankfurter and Greene, The Labor Injunction passim (Magnolia, Massachusetts: Peter Smith Publishers, Inc., 1963).

[21] Lauf v. E.G. Shinner & Co., 303 U.S. 323, 330 (1938).

[22] Adair v. United States, 208 U.S. 161 (1908); Coppage v. Kansas, 236 U.S. 1 (1915).

[23] Truax v. Corrigan, 257 U.S. 312 (1921).

[24] H. Rep. No. 669, *supra* n. 20 at 12-16; *See also* Frankfurter and Greene, *supra* n. 20 at 210-20.

[25] *Supra* n. 22.

[26] Phelps Dodge Corp. v. Labor Bd. 313 U.S. 177, 187 (1941).

[27] Texas & N.O.R. Co. v. Ry. Clerks, 281 U.S. 548, 570 (1930).

[28] 330 U.S. 386 (1947).

[29] Lockerty v. Phillips, 319 U.S. 182 (1943); Yakus v. United States, 321 U.S. 414 (1944).

[30] Yakus, *supra* n. 29 at 437, 439.

[31] 29 U.S.C. 251-62.

[32] 169 F.2d 254, 257 (C.C.A.2d, 1948).

Mr. DODD. Mr. President, the answer to the first question I posed—whether Congress can restrict jurisdiction of courts over busing—is that such an approach, at its best, is constitutionally suspect and may well be repugnant.

But to answer the second question, I believe that even if one were to draw the conclusion that the language of this bill could survive constitutional challenges, it would still be a mistake to enact it.

If passed, this legislation could well have the effect of undermining respect for the independence of our judiciary and strike a blow against the reverence for separation of powers that is so fundamental to our system of Government.

I was impressed, Mr. President, by the words of our distinguished colleague, Senator GEORGE MITCHELL of Maine, last November, when he responded to a related threat to these principles. I believe Senator MITCHELL's words are worth quoting here; he said:

The Federal courts were created as an independent branch of Government that would be immune from the immediate political pressures that properly are brought to bear on the legislative and executive branches. Indeed, a major purpose of the ju-

dicial system is to make certain that the constitutional principles of our Founding Fathers are not swallowed up by election returns. As Chief Justice Harlan F. Stone wrote in the Harvard Law Review in 1936, one of the most important functions that courts perform is to apply the "sober second thought of the community" to actions taken by the politically-dominated legislative and executive branches. The fact that Federal judges are appointed for lifetime tenure—making it impossible to vote them out of office every 2 to 6 years—reflects this intended independence from short-term political results.

The Federal courts thus represent our only branch of Government with the insulation from political winds essential to protect, when necessary, unpopular views and politically unrepresented minorities. Instead of following election returns, courts are supposed to apply—in a consistent, careful, and rational manner—constitutional precedent and principle to both old and new problems. In this way, the courts preserve our Democratic process and constitutional protections, no matter what the political passions of the moment might be.

It is worth recalling these remarks now because the amendment to this bill is only superficially a jurisdictional issue. At its heart, it is a political attack on the judiciary.

The arguments we heard in favor of the amendment certainly have not been structural or institutional ones. We have not been told that courts are ill-equipped to handle the issue of a segregation. We have not been told that our system of Government would work better if another institution reviewed such cases. What we have instead is simply a case of the majority of the moment not liking a particular remedy which courts are ordering.

One need not be an advocate or apologist for busing as a policy to argue that intrusion by the legislative branch into this issue for this reason is precisely the kind of political pressure our Constitution and tradition have sought to obviate.

What most concerns me, Mr. President, is that congressional intransigence on this amendment could raise the specter of a genuine constitutional crisis.

What happens if we enact this provision into law and a court review rules it unconstitutional? There may well be the risk of a direct confrontation between congressional power to determine the jurisdictional reach of the Federal courts and the long-standing right of the courts to rule on the constitutionality of legislative enactments.

It is too far fetched to see a scenario in which Congress refuses to acknowledge a Supreme Court verdict that it had acted unconstitutionally on grounds that the Court no longer had the appellate jurisdiction to make that determination?

I do not wish to overstate the case. But I do think we have given insufficient consideration to the dangerous implications of the step a majority of this body apparently is determined to take.

There may be a time and circumstances, Mr. President, when it is necessary or proper for Congress to refashion the parameters of Federal court jurisdiction. It could so act within its powers in order to correct a systemic problem. It is also possible that the Federal judiciary could overreach its own legitimate sphere of operation in our three-branch system of Government. I try to be a realist and I recognize that the lines separating the powers are not always drawn in a clear and incontrovertible manner.

But to take a course of dubious constitutionality with the potential for far more harm than any possible benefit seems to me to be so fraught with danger that we ought to reject the pending amendment.

Mr. WEICKER. Mr. President, I finally find my good friend from Louisiana making a remark with which I can agree. When he says this is going over to the House for an airing, believe me, that is exactly what it needs. You can put this thing in a wind tunnel, you can put it in there for about 1 year, maybe that is where it has been for about 1 year, but in any event, you can put it in a wind tunnel for 1 year and it still will not do the job. It needs an airing. It certainly does need an airing, and I hope it gets just that.

Mr. President, a parliamentary inquiry: What is the status of the yeas and nays, Mr. President, on 1252, which I believe is the Heflin amendment, is that correct—I beg your pardon, the Johnston amendment, 1252; the Heflin amendment, and S. 951 in terms of the yeas and nays? Have the yeas and nays been ordered on any or all of those things?

The PRESIDING OFFICER. They have not been ordered on any amendment.

Mr. WEICKER. I ask for the yeas and nays on all three amendments.

The PRESIDING OFFICER. It takes unanimous consent for that to happen.

Mr. WEICKER. Parliamentary inquiry. I am trying to propound my request to possibly save one vote here. I am not so sure that a rollcall vote on amendment No. 1252 is essential. I am going to propound a request that might save our colleagues time and at the same time satisfy the requirement of putting Senators on record. I ask unanimous consent that we have a call for a quorum at this time while I consult with the distinguished Senator from Louisiana.

The PRESIDING OFFICER. On whose time?

Mr. WEICKER. On my time is fine with me, but I do not think I have any time remaining, Mr. President.

The PRESIDING OFFICER. The Senator could ask for unanimous consent not to have the time charged.

Mr. WEICKER. Mr. President, I ask unanimous consent that the time not be charged to either side and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute. Mr. President, I will shortly ask, after consultation and at the suggestion of my distinguished colleague from Connecticut, that we adopt the pending amendment, which is 1252, by voice vote; that we then proceed to have the yeas and nays on the Heflin amendment; and that we then proceed to have the yeas and nays on S. 951, which would give us two rollcall votes.

I think that is consistent with what we thought we were doing. We all thought that, indeed, we would have the yeas and nays on the two real issues here. The pending amendment is nothing more than a repetition of S. 951. Frankly, it was an amendment put in as a parliamentary maneuver during the filibuster to shorten the time in which the postcloture filibuster could proceed.

At this time, Mr. President, I ask unanimous consent that we have a voice vote on the pending, 1252; that we thereafter go to the yeas and nays on the Heflin amendment; and at the conclusion of that we have the yeas and nays on the bill itself, S. 951.

The PRESIDING OFFICER. Is the Senator asking for unanimous consent to get the yeas and nays both on the Heflin amendment and the bill?

Mr. JOHNSTON. That is correct. I first ask unanimous consent that it be in order to ask for the yeas and nays on the Heflin amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I now ask unanimous consent that it be in order to ask for the yeas and nays on S. 951, which is the bill itself.

The PRESIDING OFFICER. It does not take unanimous consent.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on S. 951.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that at the conclusion of the adoption by voice vote of the pending amendment, we go immediately to the yeas and nays on the Heflin amendment. I ask for the

yeas and nays on the Heflin amendment if I did not so ask.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1252

The PRESIDING OFFICER. The question is on agreeing to amendment 1252.

The amendment (No. 1252) was agreed to.

AMENDMENT NO. 1235

(The names of Mr. JOHNSTON and Mr. HELMS were added as cosponsors of amendment No. 1235.)

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 1235 of the Senator from Alabama (Mr. HEFLIN). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Florida (Mrs. HAWKINS), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mrs. HAWKINS), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND), would each vote yea.

The result was announced—yeas 72, nays 22, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—72

| | | |
|---|---|---|
| Abdnor | East | Mattingly |
| Andrews | Exon | McClure |
| Armstrong | Ford | Melcher |
| Baker | Garn | Moynihan |
| Baucus | Goldwater | Murkowski |
| Bentsen | Gorton | Nickles |
| Biden | Grassley | Nunn |
| Boren | Hart | Pressler |
| Bumpers | Hatch | Proxmire |
| Burdick | Hayakawa | Pryor |
| Byrd, Harry F., Jr. | Heflin | Quayle |
| Byrd, Robert C. | Heinz | Randolph |
| Cannon | Helms | Riegle |
| Chiles | Hollings | Roth |
| Cochran | Huddleston | Sarbanes |
| Cranston | Humphrey | Sasser |
| D'Amato | Inouye | Stennis |
| Danforth | Jackson | Stevens |
| DeConcini | Jepsen | Symms |
| Denton | Johnston | Tower |
| Dixon | Kasten | Warner |
| Dole | Laxalt | Williams |
| Domenici | Levin | Zorinsky |
| Eagleton | Long | |
| | Lugar | |

NAYS—22

| | | |
|---|---|---|
| Boschwitz | Kassebaum | Pell |
| Bradley | Kennedy | Percy |
| Chafee | Leahy | Rudman |
| Cohen | Mathias | Specter |
| Dodd | Matsunaga | Tsongas |
| Durenberger | Metzenbaum | Weicker |
| Glenn | Mitchell | |
| Hatfield | Packwood | |

NOT VOTING—6

| | | |
|---|---|---|
| Hawkins | Simpson | Thurmond |
| Schmitt | Stafford | Wallop |

So Mr. HEFLIN's amendment (No. 1235) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. BRADLEY. Mr. President, as in legislative session, I ask unanimous consent that I be allowed to correct my vote on amendment No. 1235. I was recorded in the affirmative, and I should like to change my vote to the negative. It would not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote has been changed to reflect the above order.)

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. THURMOND. Mr. President, the Senate today will take an historic step in sending to the House of Representatives legislation which would, if enacted, halt in large measure the unwise and unnecessary practice of court ordered forced busing of schoolchildren.

I congratulate my distinguished colleagues from the States of North Carolina and Louisiana, Senators HELMS and JOHNSTON, for the fine work they have done in fashioning this legislation here on the floor of the Senate.

Ordinarily, committee chairmen, as managers of bills reported from their committees, tend to resist amendments offered by individual Senators on the floor. In this case, as chairman of the Committee on the Judiciary and as manager of S. 951, I felt a duty to the people to support the effort to end forced busing, notwithstanding the more parochial interest I may have felt in securing prompt passage of S. 951.

This legislation has been before the Senate intermittently since June 16, 1981, and so far as I can recall, that is the longest time that any bill has been held up by filibuster. I regret that this important legislation has been delayed for that period by those in the Senate who support forced busing of schoolchildren.

In many ways S. 951 has been transformed from a simple authorization measure for the Department of Justice into a vehicle for the resolution of one of the most important problems facing America as a result of court usurpation of power. Nevertheless, I must point out that the Department of Justice has been operating now for more than a month without authority. That fact is particularly damaging with repect to the undercover operations of the Federal Bureau of Investigation against organized crime and foreign intelligence agents.

For that reason and because of the overwhelming significance of ending the damage done to our young schoolchildren by forced busing, the House of Representatives ought to pass this legislation and send it to the President as promptly as can be done while allowing due consideration of the measure in the House.

In my judgment, any amendment to the measure in the House of Representatives would effectively kill the prospect of ending forced busing because certain Senators would seize on any new opportunity to filibuster and defeat this legislation in the Senate.

Therefore, if the Members of the House of Representatives wish to end forced busing, they should support passage of S. 951 without amendment in its present form.●

BAD PRECEDENT AND BAD POLICY

Mr. PELL. Mr. President, I have decided to vote against S. 951, the Department of Justice authorization bill. My reason for doing so is the unprecedented amendment which has been added to the bill stripping our Federal courts of jurisdiction or the power to grant remedies in school busing cases. Completely apart from the busing question itself, I view this provision as a dangerous precedent and for that reason have opposed S. 951 as a whole.

All of us have a right to our views on the social issues of our time. We have a right to disagree with decisions of the U.S. Supreme Court and the lower Federal courts regarding these social issues. These problems in my judgment should not be solved by shutting off access by our citizens to the Federal courts. If we shut off access to the courts, we shut off our constitutional rights. We may, in this particular instance, agree with the merits of the social policy adopted by the Congress in stripping the courts of jurisdiction in busing cases. But if the Congress can foreclose access to the Federal judiciary on this particular issue, a future Congress can shut off other constitutional rights, and in so doing fundamentally alter our system of government. If most Americans disagree with out Constitution, as interpreted by the courts on the busing question, there is a perfectly good way to change the courts' interpretation, namely the constitutional amendment process.

Throughout our history, Congress has resisted the temptation to weaken the independence of the third branch of Government in order to achieve expedient solutions to current and transient problems. Faced with the unpopularity of the Dred Scott decision, and pressures to tamper with the separation of powers, Abraham Lincoln set forth what I believe to be the appropriate response of public and political

leaders to unpopular Supreme Court decisions. Lincoln said regarding the court:

> We think its decisions on constitutional questions, when fully settled, should control, not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in the instrument itself. More than this would be revolution. But we think the Dred Scott decision is erroneous. We know the court that made it has often overruled its own decisions, and we shall do what we can to have it overrule this.

Mr. President, I believe the policy set forth by Mr. Lincoln is a much more appropriate response to the question of busing than the approach taken in this bill, and for that reason I strongly oppose S. 951.

Mr. DIXON. Mr. President, I rise to express my concern about a provision of S. 951, the Department of Justice authorizations bill, relating to the busing issue.

While I support a quality education for all children and integration of our schools, I am opposed to the busing of schoolchildren to achieve desegregation. We all know that the debate over mandatory busing has divided communities and has raised unanswered questions about appropriate ways to achieve quality and equal educational opportunities in our schools.

More and more, whites and blacks alike are agreeing that mandatory busing—as we know it—has failed as a feasible remedy for school segregation.

However, the issue here is not probusing or antibusing. The issue is the responsibility of the Congress to carry out the dictates of the Constitution. It appears to me, and I am supported by the American Bar Association as well as the Illinois Bar Association, that the so-called antibusing provisions of this bill are blatantly unconstitutional.

I am, therefore, forced to vote against final passage of S. 951, the Department of Justice authorizations bill.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Florida (Mrs. HAWKINS), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mrs. HAWKINS), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) would each vote "Yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 37, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—57

| | | |
|---|---|---|
| Abdnor | Exon | McClure |
| Andrews | Ford | Melcher |
| Armstrong | Garn | Murkowski |
| Baker | Grassley | Nickles |
| Bentsen | Hatch | Nunn |
| Biden | Hayakawa | Pressler |
| Boren | Heflin | Pryor |
| Byrd, Harry F., Jr. | Heinz | Quayle |
| | Helms | Randolph |
| Byrd, Robert C. | Hollings | Roth |
| Cannon | Huddleston | Rudman |
| Chiles | Inouye | Sasser |
| Cochran | Jepsen | Stennis |
| D'Amato | Johnston | Stevens |
| Danforth | Kassebaum | Symms |
| DeConcini | Kasten | Tower |
| Denton | Laxalt | Warner |
| Dole | Long | Zorinsky |
| Domenici | Lugar | |
| East | Mattingly | |

NAYS—37

| | | |
|---|---|---|
| Baucus | Goldwater | Moynihan |
| Boschwitz | Gorton | Packwood |
| Bradley | Hart | Pell |
| Bumpers | Hatfield | Percy |
| Burdick | Humphrey | Proxmire |
| Chafee | Jackson | Riegle |
| Cohen | Kennedy | Sarbanes |
| Cranston | Leahy | Specter |
| Dixon | Levin | Tsongas |
| Dodd | Mathias | Weicker |
| Durenberger | Matsunaga | Williams |
| Eagleton | Metzenbaum | |
| Glenn | Mitchell | |

NOT VOTING—6

| | | |
|---|---|---|
| Hawkins | Simpson | Thurmond |
| Schmitt | Stafford | Wallop |

So the bill (S. 951), as amended, was passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1982".

SEC. 2. (a) This section may be cited as the "Neighborhood School Act of 1982".

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven to be ineffective remedies to achieve unitary school systems;

(2) such orders frequently result in the exodus from public school systems of children causing even greater racial imbalance and diminished public support for public school systems;

(3) assignment and transportation of students to public schools other than the one closest to their residence is expensive and wasteful of scarce petroleum fuels;

(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

(5) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance.

(c) The Congress is hereby exercising its power under article III, section 1, and under section 5 of the fourteenth amendment.

Limitation of Injunctive Relief

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment of transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school or specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student.".

Definition

(e) The school closest to the student's residence with a grade level identical to that of the student shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

Suits by the Attorney General

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public

school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.".

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

(i) It is the sense of the Senate that the Senate Committee on the Judiciary report out, before the August recess of the Senate, legislation to establish permanent limitations upon the ability of the Federal courts to issue orders or writs directly or indirectly requiring the transportation of public school students.

SEC. 3. There are authorized to be appropriated for the fiscal year ending September 30, 1982, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For General Administration, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $12,576,000, and to remain available until expended: $50,229,000.

(D) No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

(2) For the United States Parole Commission for its activities including the hire of passenger motor vehicles: $6,461,000.

(3) For General Legal Activities, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General;

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529);

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities;

(F) the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals: $127,136,000.

(4) For the Foreign Claims Settlement Commission for its activities, including—

(A) services as authorized by section 3109 of title 5, United States Code;

(B) expenses of packing, shipping, and storing personal effects of personnel assigned abroad;

(C) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad;

(D) maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties;

(E) advances of funds abroad;

(F) advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission;

(G) the hire of motor vehicles for field use only; and

(H) the employment of aliens: $705,000.

(5) For United States Attorneys, Marshals, and Trustees, including—

(A) purchase of firearms and ammunition;

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(C) supervision of United States prisoners in non-Federal institutions;

(D) bringing to the United States from foreign countries persons charged with crime; and

(E) acquisition, lease, maintenance, and operation of aircraft; and

(6) For Support of United States Prisoners in non-Federal institutions, including—

(A) necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a);

(B) entering into contracts or cooperative agreements for only the reasonable and actual cost to assist the government of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, or materials required to improve conditions of confinement and services of any facility which confines Federal detainees, in accordance with regulations to be issued by the Attorney General and which are comparable to the regulations issued under section 4006 of title 18, United States Code: $25,600,000.

(7) For Fees and Expenses of Witnesses, including expenses, mileage, compensation, and per diem of witnesses in lieu of subsistence, as authorized by law, contracting for expert witnesses according to the procedure authorized by section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 544), including advances of public moneys: $29,421,000. No sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one calendar day.

(8) For the Community Relations Service for its activities including the hire of passenger motor vehicles: $5,313,000.

(9) For the Federal Bureau of Investigation for its activities, including—

(A) expenses necessary for the detection and prosecution of crimes against the United States;

(B) protection of the person of the President of the United States and the person of the Attorney General;

(C) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies;

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(F) acquisition, lease, maintenance, and operation of aircraft;

(G) purchase of firearms and ammunition;

(H) payment of rewards;

(I) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General;

(J) classification of arson as a part I crime in its Uniform Crime Reports;

(K) not to exceed $1,000,000 shall be made available for the purpose of carrying out the provisions of section 18 of this Act:

$745,132,000 of which $5,000,000 for automated data processing and telecommunications and $600,000 for undercover operations shall remain available until September 30, 1983. None of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(10) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route;

(B) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

(D) payment of rewards;

(E) not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General;

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(G) acquisition, lease, maintenance, and operation of aircraft;

(H) payment for firearms and ammunition and attendance at firearms matches;

(I) operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto;

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens;

(L) acquisition of land as sites for enforcement fences, and construction incident to such fences;

(M) research related to immigration enforcement which shall remain available until expended:

$377,067,000 of which not to exceed $100,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(11) For the Drug Enforcement Administration for its activities, including—

(A) hire and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(B) payment in advance for special tests and studies by contract;

(C) payment in advance for expenses arising out of contractual and reimbursabie agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));

(D) payment of expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on the certificate of the Attorney General;

(E) payment of rewards;

(F) payment for publication of technical and informational material in professional and trade journals and purchase of chemicals, apparatus, and scientific equipment;

(G) payment for necessary accommodations in the District of Columbia for conferences and training activities;

(H) acquisition, lease, maintenance, and operation of aircraft;

(I) research related to enforcement and drug control to remain available until expended;

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(K) payment for firearms and ammunition and attendance at firearms matches;

(L) payment for tort claims against the United States when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad;

(M) not to exceed $1,700,000 for purchase of evidence and payments for information (PE/PI) to remain available until the end of the fiscal year following the year in which authorized;

(N) not less than $14,800,000 and positions for State and Local Task Forces which coordinates the enforcement of drug investigations, primarily heroin trafficking, with selected State and local law enforcement agencies:

$234,444,000. For the purpose of section 709(b) of the Controlled Substances Act (21 U.S.C. 904(b)), such sums shall be deemed to be authorized by section 709(a) of such Act, for the fiscal year ending September 30, 1982.

(12) For the Federal Prison System for its activities including—

(A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions, and not to exceed $100,000 for inmate legal services within the system;

(B) purchase and hire of law enforcement and passenger motor vehicles;

(C) compilation of statistics relating to prisoners in Federal penal and correctional institutions;

(D) assistance to State and local governments to improve their correctional systems;

(E) purchase of firearms and ammunition and medals and other awards;

(F) payment of rewards;

(G) purchase and exchange of farm products and livestock;

(H) construction of buildings at prison camps and acquisition of land as authorized by section 4010 of title 18 of the United States Code;

(I) transfer to the Health Services Administration of such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions;

(J) for Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles;

(K) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this clause; and

(L) for carrying out the provisions of sections 4351 through 4353 of title 18 of the United States Code, relating to a National Institute of Corrections, to remain available until expended: $383,784,000.

SEC. 4. Sums authorized to be appropriated by this Act may be used for—

(a) the travel expenses of members of the family accompanying, preceding, or following an officer or employee if, while he is en route to or from a post of assignment, he is ordered temporarily for orientation and training or is given other temporary duty;

(b) benefits authorized under section 901 (5), (6)(A), (8), and (9) and section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4081 (5), (6)(A), (8), and (9) and 22 U.S.C. 4084), and under the regulations issued by the Secretary of State.

SEC. 5. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations issued by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance for motor vehicles and aircraft operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) Sums authorized to be appropriated by this Act to the Department of Justice may be used, in an amount not to exceed $35,000 for official reception and representation expenses in accordance with distributions, procedures, and regulations issued by the Attorney General.

(e) There are authorized to be appropriated for the fiscal year ending September 30, 1982, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

(f) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States Attorneys and Marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as authorized by sections 5901 and 5902 of title 5 of the United States Code.

SEC. 6. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until, but not later than the end of the fiscal year ending September 30, 1982.

SEC. 7. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 869);

(3) sums authorized to be appropriated for the Federal Bureau of Investigation by this

Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, an Executive Assistant Director) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), (3), or (4) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d)(1) The Federal Bureau of Investigation shall conduct detailed financial audits of undercover operations closed on or after October 1, 1981, and—

(A) report the results of each audit in writing to the Attorney General, and

(B) report annually to the Congress concerning these audits.

(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

(A) in which the gross receipts exceed $50,000, and

(B) which is exempted from section 3617 of the Revised Statutes (31 U.S.C. 484) or section 304(a) of the Government Corporation Control Act (31 U.S.C. 869(a)).

SEC. 8. Section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)) is amended—

(1) by striking out "and" after "1980", and

(2) by inserting after "1981", the following: "and $234,444,000 for the fiscal year ending September 30, 1982,".

SEC. 9. Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended by inserting "and the award of compensation to informers in respect to such forfeitures" immediately after "compromise of claims".

SEC. 10. Without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), the Drug Enforcement Administration is authorized to—

(a) set aside 25 per centum of the net amount realized from the forfeiture of seized assets and credit such amounts to the current appropriation account for the purpose, only, of an award of compensation to informers in respect to such forfeitures and such awards shall not exceed the level of compensation prescribed by section 1619 of title 19, United States Code;

(b) the amounts credited under this section shall be made available for obligation until September 30, 1983;

(c) such awards shall be based on the value of the seized property or the net proceeds from the sale of such property except that no award may be paid from or based on the value of the seized contraband; and

(d) the remaining 75 per centum of the net amount realized from the forfeiture of the seized assets referred to in subsection (a) shall be paid to the miscellaneous receipts of the Treasury:

*Provided,* That the authority furnished by this section shall remain available until September 30, 1983, at which time any amount of the unobligated balances remaining in this account, accumulated before September 30, 1982, shall be paid to the miscellaneous receipts of the Treasury: *And provided further,* That the Drug Enforcement Administration shall conduct detailed financial audits, semiannually, of the expenditure of funds from this account and—

(1) report the results of each audit, in writing, to the Attorney General, and

(2) report annually to the Congress concerning these audits.

SEC. 11. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organizations' programs, as determined by the priorities set either by the Congress or the Attorney General;

(b) Subordinate Department of Justice organizations and their officials shall provide all the necessary assistance and cooperation in the conduct of evaluations, including full access to all information, documentation, and cognizant personnel, as required.

SEC. 12. (a) Chapter 15 of title 11, United States Code (92 Stat. 2651 et seq.) and chapter 39 of title 28, United States Code (92 Stat. 2662 et seq.) are repealed.

(b) Section 408 of the Act entitled "An Act to establish a uniform Law on the Subject of Bankruptcy", approved November 6, 1978 (92 Stat. 2686), is repealed.

(c) Section 330 of title 11, United States Code (92 Stat. 2564) is amended by striking out "and to the United States Trustees.".

SEC. 13. The Act of March 2, 1931 (8 U.S.C. 1353a and 8 U.S.C. 1353b) is hereby repealed.

SEC. 14. The Immigration and Nationality Act is amended by adding after section 283 the following new section:

"§ 283a. Reimbursement by vessels and other conveyances for extra compensation paid to employees for inspectional duties

"(a) The extra compensation for overtime services of immigration officers and employees of Immigration and Naturalization Service for duties in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles arriving in the United States by water, land, or air, from a foreign port shall be paid by the master, owner, agent, or consignee of such vessel or conveyance, at the rate fixed under the applicable provisions of sections 5542 and 5545 of title 5, United States Code.

"(b) The extra compensation shall be paid if the employee has been ordered to report for duty and has reported, whether or not the actual inspection or examination takes place: *Provided,* That this section shall not apply to the inspection at designated ports of entry of passengers arriving by international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the Great Lakes and connecting waterways, when operating on regular schedules.".

SEC. 15. (a) Section 1353c of title 8, United States Code (the Act of March 4, 1921 (41 Stat. 1224), as amended), is redesignated as section 1353b of title 8, United States Code.

(b)(1) The Act of August 22, 1940, as amended (8 U.S.C. 1353d), is amended by striking the words "the Act of March 2, 1931" and inserting instead the words "section 283a of the Immigration and Nationality Act.".

(2) Section 1353d of title 8, United States Code is redesignated as section 1353c of title 8, United States Code.

(c) Section 5549 of title 5, United States Code is amended by—

(1) striking subsection (2), and

(2) redesignating subsections (3) through (5) as (2) through (4), respectively.

SEC. 16. Notwithstanding any provision of this Act, the Department of Justice shall not be prevented from participating in any proceedings to remove or reduce the requirement of busing in existing court decrees or judgments.

Mr. JOHNSTON. Mr. President, parliamentary inquiry. Is a motion to reconsider in order?

The PRESIDING OFFICER. The motion is in order and is not debatable.

Mr. JOHNSTON. I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. BAKER. Mr. President, as I indicated earlier, I would like to take up the conference report on the standby petroleum allocation bill this afternoon on a time agreement.

This morning when I discussed the matter it did not appear that the parties agreed on an arrangement for time. It appears now that an agreement may have been reached. I believe the agreement I am about to request has been cleared with the minority, and I will state it at this time for the

consideration of the minority leader and the Senate.

## UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON S. 1503

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate turns to the consideration of the conference report on S. 1503, the standby petroleum allocation bill, it be considered under the following time agreement:

One hour on the conference report, to be equally divided between the chairman of the Energy Committee and the ranking minority member or their designees; 1 hour under the control of the distinguished Senator from New Jersey (Mr. BRADLEY); 30 minutes under the control of the distinguished Senator from Oklahoma (Mr. NICKLES); and that following the conclusion of the time allocated or the yielding back of that time the Senate proceed to a rollcall vote on agreeing to the conference report.

Further, Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on final passage.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would the distinguished majority leader not include in his request that the Senate proceed by rollcall vote so that that may be ordered in accordance with precedents.

Mr. BAKER. Yes, Mr. President, I withdraw that portion of the request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, the request still includes unanimous consent that it be in order at this time to order the yeas and nays.

The PRESIDING OFFICER. The Senator is correct. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I thank the Chair.

## RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:24 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HELMS).

## QUORUM CALL

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from North Carolina, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. LUGAR assumed the chair.)

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

### DEPARTMENT OF STATE

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed, in executive session, to consider the nomination of James Daniel Theberge.

The nomination will be stated.

The assistant legislative clerk read the nomination of James Daniel Theberge, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. To whose time is the quorum call to be charged?

Mr. PERCY. Equally divided.

Mr. HELMS. Equally divided, the Senator suggests.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, we have an unusual situation here. We are awaiting the arrival of the able Senator from Massachusetts (Mr. KENNEDY). I suppose the best thing to do would be to suggest the absence of a quorum and ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the quorum call be withheld.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, the matter before the Senate is the confirmation of the nomination of James D. Theberge to be Ambassador to Chile. It is my understanding that Senator KENNEDY intended to come to the floor and speak on this nomination. For that reason, 1 hour has been reserved. I ask that we send word to Senator KENNEDY that we are ready to hear his remarks now.

Mr. President, in the judgment of the committee and in my judgment, James Theberge is highly qualified by training and experience to serve as American Ambassador to Chile. He has held U.S. Government positions previously. He has written extensively on the area. He speaks Spanish fluently. He knows personally many Latin American leaders.

He has formerly served as Ambassador to Nicaragua, from 1975 to 1979. He served in the U.S. Marine Corps as a first lieutenant. He was a director of the Latin American Center for Strategic and International Studies, Georgetown University.

He was president of the Institute for Conflict and Policy Studies, Washington, D.C. He was senior development adviser, Planning Research Corp., New York, N.Y. He has served from 1981 to the present as Special Adviser on Inter-American Affairs, Department of Defense, Washington, D.C.

I consider him qualified for this post. The opposition that has been expressed to this nomination is not so much with respect to the man but to disagreement on U.S. policy, whether toward Chile or elsewhere in the hemisphere. To the extent that the opposition relates to Chile, this should not be a factor in our consideration of Mr. Theberge's qualifications, Mr. Theberge has not had any role in determining our policy toward Chile. I believe that he will bring to that task the highest levels of professional integrity and dedication.

To the extent that the opposition is based on events and policies in the past, I simply remind my distinguished colleagues that an ambassador, while helping to determine policy, more often serves as the principal implementor for policy that is determined in Washington.

Therefore, I urge the prompt confirmation of the nomination of James Theberge.

After whatever remarks the distinguished floor manager of the nomination, the chairman of the Western Hemisphere Subcommittee, has to make, this side will be happy to yield back its time, there being no other Senator we know of who wishes to speak on this nomination, the Foreign Relations Committee having acted overwhelmingly in favor of the nomination.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. KENNEDY. Mr. President, will the Senator yield so that I may ask for the yeas and nays?

Mr. HELMS. Certainly.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, needless to say, the Senator from North Carolina wishes the nominee, Mr. Theberge, total success in this new capacity as Ambassador to Chile.

I do not know the gentleman personally and certainly have no personal objections to him as a man. I do, however, hold genuine doubts about the nomination of Dr. Theberge to be U.S. Ambassador to Chile; and inasmuch as I have those doubts, I have concluded that I should not and cannot support the nomination.

Obviously, Mr. President, I hope that my apprehensions will prove unfounded, and I reiterate that I wish him total success. As a member of the Foreign Relations Committee and as chairman of the Western Hemisphere Subcommittee of that committee, I extend to him my fullest cooperation.

I hold genuine doubts about the nomination of Dr. James Theberge to be U.S. Ambassador to Chile. I have concluded that, having those doubts, I cannot support the nomination.

I do not know Mr. Theberge; I have no personal views regarding him. My concern about this nomination began with conversations with a trusted friend in North Carolina who lived in Nicaragua during Mr. Theberge's tour as U.S. Ambassador there. From those conversations, and from reports of others who are familiar with Mr. Theberge's tenure as Ambassador in Managua, I have concluded that, based on his record, Mr. Theberge is not the best choice as U.S. Ambassador to Chile.

There are a number of individuals with expertise in Latin American affairs who are well suited to serve as U.S. Ambassador to Chile. The United States is obliged to send its best personnel to this important Latin American country, a nation which has pulled itself out of the morass of Communist rule that left it economically, politically, and socially bankrupt.

The success of Chile, an economic miracle, is an example for other Latin American nations to follow. Through tough measures, borne by all Chileans at all economic and social levels, this ally of the United States has brought about the near-impossible: a stable and workable economy. I visited Chile in 1976, 3 years after the Communist government of Salvador Allende was overthrown. The scars of the Allende regime remained: hyperinflation, social disruption, economic chaos. Yet, even then, there was hope in Chile, hope that the belt tightening that Chile was undergoing eventually would result in a better life for all Chileans.

Today, Chileans are beginning to enjoy a better life. Ominously, with that better life has come a resurgence of the leftist-inspired terrorism which nearly destroyed Chile a decade ago. Thus, the U.S. Ambassador to Chile will find himself in a delicate situation.

Mr. Theberge was in a similar situation during his tenure as U.S. Ambassador to Nicaragua. The economy was relatively prosperous. While the human rights situation did not please those who demand perfection of our friends while overlooking the cruelties of our adversaries, the human rights situation then was far better than it is now. The country faced a small but growing insurgency just as Chile does now. During Mr. Theberge's tour as Ambassador, the situation worsened, and the United States began to draw away from support of its ally, the Government of Nicaragua. Mr. Theberge's role in that is a matter of great concern to firsthand observers who have discussed the subject with me. They have no ax to grind; they are not enemies of Mr. Theberge. They simply fear that we may see in Chile what they saw in Nicaragua.

That cannot be allowed to happen. Chile is a friend of the United States. Chile supports the United States in international bodies. Chile supports U.S. goals in Latin America. Chile deserves support.

In this set of circumstances, obviously the United States must have an Ambassador whose track record is unambiguous. I sense that Mr. Theberge does not meet this essential criterion.

Mr. President, I indicate to the Chair that it is my intent to yield back the remainder of my time, but I will not do so at the moment, until the debate has been concluded. However, I have no intention of consuming any more time.

Mr. PELL. Mr. President, this nomination was supported by the Committee on Foreign Relations. There were three negative votes. In general, we found Mr. Theberge well informed, intelligent, able, and articulate. I, for one, voted for his nomination.

I recognize that he is criticized by those from the conservative side of the political spectrum and those from the liberal side of the political spectrum, which seems to indicate where we in the Senate hope most of our appointees are. For this reason, I intend to support this nomination, without in any way derogating the views or thoughts of those who oppose the nomination.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am deeply concerned over recent developments which indicate that the Reagan administration intends to open a new and closer relationship with the Pinochet regime in Chile. Such a policy is a contradiction of the ideals for which our country stands and it is a tragedy for the people of Chile and others in Latin America who look to the United States for support. I remain opposed to that policy and to actions by the Reagan administration that misrepresent and distort the historical support of the United States for the principles of democracy and human rights. I stand, therefore, today in opposition to the nomination of James D. Theberge as U.S. Ambassador to Chile.

All of us are aware of the tragic developments in Chile following the military coup in 1973—a coup that overthrew more than 100 years of democratic government in Chile. Later, we heard about the arrest and detentions without charge or trial, the thousands of Chileans who simply disappeared, and the torture and exile used by the military regime to impose its will on the people.

To express our opposition to this cruelty, brutality, and gross violation of basic human rights, I introduced legislation, enacted into law, that prohibited all military assistance to Chile until conditions improved and respect for democratic principles and human rights became once again the foundation of government in Chile.

Last fall spokesmen for the administration asked for a change in the law that would permit a new military relationship with Chile. In doing so, they argued that the situation in Chile had improved.

Many here in the Congress, myself included, questioned this policy. As a result, the International Security and Development Cooperation Act of 1981 included language to prohibit military aid to Chile unless the President certified that such aid is in the national interest, that the Government of Chile is making significant progress on human rights, that Chile is not aiding and abetting international terrorism, and that Chile is taking appropriate steps to bring justice to the Chileans indicted by a U.S. grand jury for the murders of the former Ambassador Orlando Letelier and Ronni Moffitt in Washington in 1976.

When the Senate agreed to this certification procedure last year, I stated my view that the conditions did not exist to justify such a certification. Several of my colleagues agreed. Senator PERCY, the chairman of the Senate Foreign Relations Committee, said he knew of no plans by the administration to provide military aid to Chile, and that full committee hearings could be held if the administration attempted to make a certification.

In recent months, there have been repeated reports that the President is preparing to submit a certification for Chile. This past weekend, the Washington Post reported that the administration intends to ask for money in the 1983 foreign aid appropriations for the Chilean military.

There has been completely inadequate consultation with Members of Congress over this new policy toward Chile even though the Congress has gone on record as being concerned about this policy. The administration cannot expect support from Congress if it does not consult with those Mem-

bers who are active and have expressed interest in this issue, which is of great importance not only to Chile but to U.S. relations with Central America and our overall credibility as a force for human rights and against terrorism throughout the world.

The administration cannot in good faith make the required certification. Examine the points of certification:

First. U.S. national interest: The administration would have us believe that Chile would support the U.S. position in international forums. But even at a time when the Pinochet regime is trying to curry Washington's favor, the New York Times reported on February 4 that Chile was the only non-Marxist government to vote in a U.N. meeting in Geneva in January against making the crisis in Poland a special item for the U.N. high commissioner for refugees.

Second. Progress on Human Rights: Amnesty International's 1981 report, published late last year, states:

The Chilean Government has been criticized for its human rights record by the United Nations General Assembly, the Inter-American Human Rights Commission of Jurists, the Inter-Parliamentary Union and other organizations.

In addition, the Amnesty International report noted that in 1981, there were numerous allegations of torture by the security forces. The report stated:

A consistent pattern emerged from the detailed reports: Agents of the C.N.I. (the Chilean Intelligence Service), the Army and the Navy seized people in their homes or on the street; they took them, blindfolded, on the floors of vans or cars to torture centers in military barracks or secret locations. There they were interrogated and tortured for days at a time: Commonly with the parrilla, a metal grid to which the victim is tied while electric shocks are administered. Severe beatings, threats and humiliation were also reported.

Last December, in its annual human rights report to the Organization of American States, the Inter-American Commission on Human Rights specifically cited Chile for detentions without due process, a state of emergency which denied civil and political rights, arbitrary expulsion of citizens, and limitation of freedom of thought and expression. All of these findings constitute denials of internationally recognized human rights. The Commission's report was approved by the OAS General Assembly.

The most recent example of the persistent pattern of violation of human rights in Chile is a report of the Americas Watch Committee, submitted following a trip to Chile in December 1981 by its vice chairman, Aryeh Neier.

That report details a decline in respect for internationally recognized human rights in 1981. It cites nearly 1,000 arrests of political prisoners, an institutionalized practice of torture of those arrested, the arbitrary expulsion—for the first time since 1978—of prominent human rights leaders, including a former minister of justice under the Frei administration, the harassment and intimidation of leading human rights organizations, including those of the church, and the continuing denial of political freedom.

Each of these citations constitutes a violation of internationally recognized human rights, in direct contradiction of the certification required by the President.

I would like to detail the issue of torture, because it is a particularly brutal crime and because it has been directed against leaders of the human rights organizations. The Americas Watch report notes that the incidence of torture is far higher than the number of those where specific details are available. The report cites a January 15, 1982, letter from the Vicar of Solidarity of the Archdiocese of Santiago which states:

One of the results of torture is to produce such a level of intimidation, that very few people dare to denounce the tortures they have suffered.

However, in November and December 1981 alone there are detailed reports of 20 cases of torture. The bravery of these individuals, who remain in Chile but are willing to describe what was done to them in hopes of bringing pressure to bear on the Chilean Government to halt that practice, should give pause to those who seem inclined to accept the administration's assertions.

One of those tortured was a member of the Chilean Commission on Human Rights, Pablo Fuenzalida. I will quote the account in Mr. Neier's report in full:

One of those tortured in December, 1981 was Pablo Fuenzalida of the Chilean Commission on Human Rights. I visited him in the Santiago Prison on December 22, 1981. He described the torture he had endured at the hands of the Chilean Secret Police, the Central Nacional de Informanciones (CNI). It was on the second day of his captivity. He was stripped naked, his blindfold was removed, and he was ordered to lie on a metal bed frame. Fuenzalida's arms and legs were tied to the bed frame with wet cloths. A wet cloth was placed under his neck and another was stuffed in his mouth. Wires were attached to his legs, his testicles and his chest. He was given shocks by an interrogator who controlled the flow of electricity from a desk where he sat asking questions. Fuenzalida estimates that he was interrogated in this way for about an hour and a half. Since then—eleven days had elapsed from the time Fuenzalida was tortured until I visited him in the Santiago Prison—the right side of his body has been partially paralyzed. He could not move his right arm freely and was unable to shake hands with me. He said his leg felt as though it was asleep.

Most of the other interrogation sessions were much longer, Fuenzalida told me. He estimated that one of them, during which he was blindfolded, lasted thirteen hours. What did they want to know? He told me he was interrogated extensively about the Chilean Commission on Human Rights, about its leaders, about the cardinal, about several bishops and about the Christian Left—a splinter off the Christian Democratic Party when political parties were legal in Chile.

Following this thirteen hour interrogation, Fuenzalida was moved to another room where the clothes were returned to him that had been taken away when he was first seized. His blindfold was removed and he was interrogated in front of what he thought was a video camera that was turned on intermittently. When his answers to questions were not satisfactory, the camera was turned off and the picana, an electric prod, was applied to various parts of his body. He was asked about weapons in front of the camera. Once he had given the answers that his interrogators wanted, Fuenzalida says, they didn't seem interested in asking follow-up questions about weapons.

Early Monday morning, December 14, about 80 hours after he had been seized during which he had only a few hours of sleep, Fuenzalida was led to a room where he signed about 35 documents certifying that he had been well treated and had suffered no physical abuse.

That is only the latest evidence of the continuation of torture by the Government of Chile. The present Government of Chile continues to engage in gross and persistent patterns of violation of internationally recognized human rights. There has not been "significant progress."

During hearings before the Senate Foreign Relations Committee in December, I asked Mr. Theberge about the situation in Chile. I asked about the deteriorating human rights situation, about the increased use of torture by the Chilean Government, and, above all, about the continuing effort of that government to terrorize its own citizens. Mr. Theberge acknowledged that he knew of reports about conditions in Chile, but he did not perceive that these conditions warranted undue concern.

In his responses to questions, Mr. Theberge referred to the substantial improvement from 1977 to present, but in doing so he disregards the fact that 1977 was one of the worst years of abuses, murders, assassinations, arrests, and disappearances.

Simply put, the situation could not have become worse. In 1982 we should not be comparing conditions in Chile today with those of 1977, but with conditions 1 year ago. If Mr. Theberge had done so, his answers would have been different. I am very concerned however, that, believing conditions have improved, he will not effectively use his position as U.S. Ambassador to encourage the Pinochet regime to move even further toward respect for the rights of its citizens.

I am so concerned, Mr. President, over the unsatisfactory character of Mr. Theberge's response to the questions I put to him that I invite my colleagues to review them with me at this time and I request unanimous consent

that they be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. I might just mention before I continue, Mr. President, what some of the responses on these issues were by Mr. Theberge. On the last question:

In response to a question from Senator Percy, you stated your belief that the Administration could provide Congress with the required certification because the Government of Chile is "not systematically and grossly violating human rights." How can you justify such a statemant in view of the report just issued by the United Nations (Economic and Social Council) that the Government of Chile continued to refuse to cooperate with the Special Rapporteur and that they had failed to take the concrete measures mentioned in the resolution 21 (XXXVI) of 29 November 1980? I refer to the entire report but would note that in point 10 the Commission on Human Rights "reiterated its indignation at the deterioration of the human rights situation in Chile"

His answer:

Neither the previous nor the present administration formally designated Chile as a country whose government engages in a "consistent pattern of gross violations of internationally recognized human rights." There has been significant improvement in the human rights situation in Chile since 1977. There have been no disappearances since October 1977; there has been no indefinite detention without trial since 1976; most political prisoners were amnestied in 1978. These are important advances.

Now, I would say that the nominee that has given that kind of response is unqualified to serve this country in that post, given the overwhelming number of reports, not just from one, not from two, not from three, but from four independent agencies giving eyewitness accounts of conditions today in Chili. Anyone who responds as did Mr. Theberge, shows, I think, an insensitivity to the issue of human rights and, quite clearly, shows a complete failure to understand what has been happening and is happening in Chile today.

I asked another question:

What steps will you tell this committee that you will take to urge the Government of Chile to pay this final judgment issued by a U.S. Federal Court?

There is a civil court judgment which required damages of $4.9 million to the families of those who have been assassinated by the Government of Chile.

I asked him:

What steps will you tell this committee that you will take?

He said:

It is my understanding that this is a civil suit and that the U.S. Government is not directly involved. I do not know what role the U.S. Government can properly carry out. As Ambassador I will be guided by the instructions I receive from the Department of State.

Why did he not ask the Department? Is the American Ambassador not supposed to represent American citizens? What about those families that have felt the brutality of assassination and where a Federal court has made a finding? We are sending him down to Chile to represent us and he says: "It is my understanding that the U.S. Government is not directly involved."

Mr. President, it just amazes me that this nominee could respond to these questions in this manner, given the past history of this Senate and the interest of the Members of this Senate on issues of human rights and international organizations.

Now, on the issue of the support for international terrorism, we know that the Government in Chile engaged in acts of international terrorism in the United States in carrying out the assassination of Orlando Letelier and Ronni Moffitt, an American citizen in this city.

But there is more. Our own Government has acknowledged in the past that the Chilean Intelligence Service engaged in a joint terrorist arrangement with other like-minded intelligence services in what was called Operation Condor. An FBI cable described one part of that operation as follows:

A third and most secret phase of "Operation Condor" involves the formation of special teams from member countries who are to travel anywhere in the world to nonmember countries to carry out sanctions up to assassination. . . .

I submitted a written question to Mr. Theberge, asking whether he was aware of "other such international terrorist acts" similar to the Letelier assassination carried out by the Chilean Government. He responded:

I am aware of allegations that the Chilean Government was responsible for the death of General Pratt and his wife in Buenos Aires in 1974, and for the attack on Bernardo Leighton and his wife in Rome in 1975.

We hear a great deal on this Senate floor about doing something about international terrorism. Over and over we deplore it. After there is some tragedy, speaker after speaker comes here to make his statement. We appoint groups and task forces and international agencies to try to do something about it. In this case we have a government, the same government that is in power in Chile today, actively involved in acts of international terrorism. I do not expect an Ambassador by himself to be able to change another government's policy; but I do expect the man who is going to represent the United States to show some understanding of the problem and show some concern about it.

Mr President, recent letters from William Townley, who is serving a prison sentence for his part in the Letelier killings, were obtained by reporters and made available to the FBI. Those letters refer to Chilean Intelligence Service involvement with Italian terrorist organizations—Italian terrorist organizations like those that recently kidnapped an American general, General Dozier.

And where do we see in Mr. Theberge any recognition or understanding or sensitivity or concern about that?

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the February 23 Washington Post article by Patrick Tyler reporting these letters.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. KENNEDY. Mr. President, the letters were sent to Townley's contact person in the Chilean Intelligence Service. They assassinated an American and still are being paid today; their family is. They live in a house, which he does not own but on which they do not pay rent, which is believed to belong to the intelligence service. This shows a continued willingness to pay those who engaged in those acts. In that action alone, the Chilean Government continues to aid and abet international terrorism.

Fourth. The murders in Washington. The Chilean Government refuses to cooperate in the extradition of those indicted by a U.S. grand jury for the murders of Orlando Letelier and Ronni Moffitt. It is ironic that the Government periodically expels from Chile—without any judicial proceeding whatsoever—those whose only crime is to speak out against human rights abuses, which it asserts its inability to extradite the former intelligence officials indicted here for murder.

Most recently, the supreme court in Chile refused to order any further proceedings against the officials, but it reversed a military court decision acquitting them. That decision, hurriedly announced after the enactment by Congress of the certification requirement last year, avoided the absolute termination of all Chilean court proceedings. It has technically kept the case open until 1991—without any further proceedings or any further action likely. The action in no way constitutes a cooperative step by the Government to bring to justice those responsible for the murders of Orlando Letelier and Ronni Moffitt.

The lawyer for one of the intelligence officers has described this verdict more accurately than the administration—he said:

The judgment in the Letelier case is ended with this temporary dismissal. The highest tribunal did not order new formalities to be transacted, which would indicate that the investigation is totally washed up.

I asked Mr. Theberge about this case:

During Senate debate of the Foreign Assistance Authorization Bill, the following provision was adopted: "It is the sense of the Congress that the Government of Chile should take steps to bring to justice by all legal means available in the United States or Chile those indicted by a U.S. Grand Jury in connection with the murders of Orlando Letelier and Ronni Moffitt."

He said:

I will faithfully represent, to the best of my ability, the views of the American public, Congress and Executive Branch on this issue to the Chilean Government. The "sense of the Congress" language is one very important manifestation of the concern felt by many Americans regarding the Letelier/Moffitt assassinations. So long as there are legal means available, I will urge the Government of Chile to take all appropriate steps.

Mr. President, in a Washington Post article of February 23, 1982, Mr. Barcella, who was the prosecuter in this case, is quoted as saying:

They (Chilian officials) haven't done spit since the day this thing happened. In fact, they have been dilatory and obstructionist.

That has been the record with the Government of Chile and its involvement in the killing of an American here in the streets of Washington.

And Mr. Theberge can only say: "So long as there are legal means available." In other words, business as usual. That is not my ambassador. Any individual who has that kind of attitude is not going to get my vote.

As this brief examination of recent developments in Chile demonstrates, the situation on human rights in Chile has not improved in recent years. It has continued to deteriorate. The United States must not condone these violations of human rights. Instead, we must encourage the Pinochet government to halt the brutal actions it is taking even now against its own people. We need a policy that offers hope for a return to democracy in Chile and an end to repression.

As I have previously mentioned, I have posed several questions to Mr. Theberge about the situation in Chile today and how he, as the U.S. Ambassador, might use his position to encourage the Government of Chile to take the necessary steps to improve conditions in that country. I found that Mr. Theberge is well aware of the conditions that exist in Chile. But he does not find them significant or of a sufficiently serious nature to require special efforts.

This is an insensitive response to the pervasive atmosphere of Government oppression that now exists in Chile. This insensitivity is enough, by itself, to disqualify Mr. Theberge as our Ambassador to Chile. His nomination is a distressing signal to governments abroad that human rights no longer matter in our foreign policy. It is a signal that the Senate should reject this nomination.

Mr. President, as far as I am concerned, I am prepared to vote at any time.

EXHIBIT 1

DEPARTMENT OF STATE,
*Washington, D.C., December 8, 1981.*

Hon. CHARLES H. PERCY,
*Chairman, Committee on Foreign Relations, U.S. Senate.*

DEAR MR. CHAIRMAN: Following Ambassador-Designate Theberge's appearance before the Committee on December 7, the Department received additional questions to be answered for the record from Senators Helms, Kennedy, and Pell. Enclosed are our responses to those questions.

Yours sincerely,

RICHARD FAIRBANKS,
*Assistant Secretary for Congressional Relations.*

Enclosures.

QUESTIONS FROM SENATOR KENNEDY

Question 1. On October 22, 1981, the Senate adopted an amendment to the Foreign Aid Authorization Bill which established as one of the conditions which must be met in any Presidential certification on aid to Chile "that the Government of Chile is not aiding or abetting international terrorism."

Can you tell the Committee whether you believe that the Government of Chile supported acts of terrorism in the past?

Answer. A US Grand Jury indicted three Chileans in connection with the assasinations of Orlando Letelier and Ronni Moffitt. In order for that to happen there must have been substantial evidence that the three were involved. On the basis of that evidence we requested their extradition. It was denied by the Chilean Supreme Court, primarily on grounds that plea bargained testimony is not admissible as evidence under Chilean jurisprudence. There have been other allegations of terrorist acts committed by the Chilean Government; but in none of these cases has there been trial and conviction. Within our legal tradition men are presumed innocent until found guilty. I cannot give a categorical "yes" or "no" answer to your question.

Question 2. Let me read from a declassified cable from the FBI dated a week after the assassination of Letelier regarding "Operation Condor." This was an organization of cooperating intelligence services in South America. The cable reads: "A third and most secret phase of 'Operation Condor' involves the formation of special teams from member countries who are to travel anywhere in the world to non-member countries to carry out sanctions up to assassination * * *." The cable went on to note, "It is not beyond the realm of possibility that the recent assassination of Orlando Letelier in Washington, D.C. may have been carried out as a third phase action of 'Operation Condor.'" Since then, the U.S. Government and, subsequently, a federal grand jury reached the conclusion that the Chilean Government had ordered the assassination. The former head of the Chilean Intelligence Service and two others were indicted for that murder.

Do you have any information as to whether other such international terrorist acts have been carried out by the Chilean Government?

Answer. I am aware of allegations that the Chilean Government was responsible for the death of General Prat and his wife in Buenos Aires in 1974, and for the attack on Bernando Leighton and his wife in Rome in 1975.

Question 3. If such information concerning additional acts was released, what would be your recommendation as to appropriate U.S. actions?

Answer. The United States Government opposes international terrorism. Our relations with any government which engages in such activities would suffer. Clearly, if such activities occurred in the United States, I would recommend and support all appropriate diplomatic actions that contributed to the effective investigation and prosecution of those responsible.

Question 4. Do you agree that there should be a special concern about Chilean agents who come to the US and who violate US law? Would you take steps to prevent such actions (as the Letelier affair) from being taken in the future?

Answer. I am unalterably opposed to the illegal actions of any foreign agents in the United States. If, while Ambassador to Chile, it should come to my knowledge that agents of the Government of Chile might be engaged in actions contrary to our laws, I would take all measures within my power to prevent such actions.

Question 5. Congressional Affairs Liaison of the FBI confirmed to me today (December 7) that the Bureau is advising government agencies including the FAA, In an unclassified memo, that Townley, who is now serving a sentence in relation to the Letelier assassination, obtained nerve gas while he was in Chile and brought that nerve gas into the United States to use in the assassination had that been necessary. I understand that this nerve gas was also produced by Chile to use against Argentina and Peru in case of war.

Are you aware of this? Can you find out for the Committee whether this is accurate and what steps are being taken to determine whether that nerve gas—I believe it is called "sarin"—has been used elsewhere by Chilean intelligence authorities?

Answer. No, I have no knowledge of this report. I do not know whether I, or any government official, can determine the accuracy of this information. As Ambassador, I would, of course, do my best to comply with all requests and instructions from the Department of State.

Question 6. During Senate debate of the Foreign Assistance Authorization Bill, the following provision was adopted: "It is the sense of the Congress that the Government of Chile should take steps to bring to justice by all legal means available in the United States or Chile those indicted by a US Grand Jury in connection with the murders of Orlando Letelier and Ronni Moffitt."

Answer. I will faithfully represent, to the best of my ability, the views of the American public, Congress and Executive Branch on this issue to the Chilean Government. The "sense of the Congress" language is one very important manifestation of the concern felt by many Americans regarding the Letelier/Moffitt assassinations. So long as there are legal means available, I will urge the government of Chile to take all appropriate steps to ensure that those implicated in the assassinations are tried and, if found guilty, punished.

Question 7. Are you familiar with the Chilean Government's recent action related to this case, and specifically the expulsion of the attorney for the Letelier family just prior to his appeal of a military court acquittal in the passport fraud case of Chilean

intelligence officers in the United States stemming from the Letelier assassination?

Will you press the Government of Chile to permit Mr. Jaime Castillo to return to Chile?

Answer. Yes. I believe that Mr. Jaime Castillo's return to Chile has been the subject of discussion between our two governments, and I would expect to take this matter up at the earliest feasible moment.

Question 8. The families of Orlando Letelier and Ronni Moffitt brought civil suits against the Government of Chile. In November 1980, Federal Judge Joyce Hens Green ruled in favor of the families, finding the Government of Chile responsible for the deaths. Judge Green entered a judgement against the Government of Chile for $4.9 million in damages to be paid to Letelier and Moffitt families. The Government of Chile has not paid that judgement.

Are you aware of what steps the US Government has taken to press that this judgement be paid? What are these steps?

Answer. No, I am not aware of what steps the US Government may have taken in this case.

Question 9. Judge Green's opinion states: "Whatever policy options may exist for a foreign country, it has no discretion to perpetuate conduct designed to result in the assassination of an individual or individuals, action that is clearly contrary to the precepts of humanity as recognized in both national and international law."

Do you agree with that view? What will you do to further it in Chile?

Answer. I agree fully with the view expressed by Judge Green. Should circumstances require, I would express clearly and forcefully the position not only of Judge Green, but of the vast majority of the American people.

Question 10. What steps will you tell this Committee that you will take to urge the Government of Chile to pay this final judgment issued by a U.S. Federal Court?

Answer. It is my understanding that this is a civil suit and that the U.S. Government is not directly involved. I do not know what role the U.S. Government can properly carry out. As Ambassador I will be guided by the instructions I receive from the Department of State, and I will carry them out to the best of my ability.

Question 11. What should be the role of an Ambassador in countries where there are serious violations of human rights?

Answer. Human rights are a central aspect of American foreign policy. The role of the American Ambassador, in this regard, is to make sure that host country officials understand the importance of that factor and to report accurately the status of human rights in the country.

Question 12. In response to a question from Senator Percy, you stated your belief that the Administration could provide Congress with the required certification because the Government of Chile is "not systematically and grossly violating human rights." How can you justify such a statement in view of the report just issued by the United Nations (Economic and Social Council) that the Government of Chile continued to refuse to cooperate with the Special Rapporteur and that they had failed to take the concrete measures mentioned in the resolution 21 (XXXVI) of 29 November 1980? I refer to the entire report but would note that in point 10 the Commission on Human Rights "reiterated its indignation at the deterioration of the human rights situation in Chile. . . ."

Answer. Neither the previous nor the present administration formally designated Chile as a country whose government engages in a "consistent pattern of gross violations of internationally recognized human rights." There has been significant improvement in the human rights situation in Chile since 1977. There have been no disappearances since October 1977; there has been no indefinite detention without trial since 1976; most political prisoners were amnestied in 1978. These are important advances. This is not to say that all problems have been resolved. But Chile is by no means unique in that regard. As Ambassador, I will use appropriate diplomatic means to express the support of the American Government and people for the full restoration of all rights and protections that constitute the core of both the American and Chilean political traditions.

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EXHIBIT 2

[From the Washington Post, Feb. 23, 1982]

LETTERS SAY CHILE AIDED LETELIER MURDER FIGURE

(By Patrick E. Tyler)

The Chilean government paid legal fees and family support during 1978 and 1979 for Michael V. Townley, the man who was convicted of plotting and helping to carry out the car bombing assassination in Washington of exiled former Chilean diplomat Orlando Letelier, according to private letters Townley wrote from prison to officials in Chile.

Copies of 52 letters, covering the period from June 1978, two months after Townley was turned over to the United States by the Chilean government, to October 1979, were obtained by The Washington Post and authenticated by federal officials.

The letters portray the still-imprisoned Townley as frustrated and despondent over efforts by the Chilean government publicly to disassociate itself from him, and by the slow payment of his bills. At the same time, the letters contain assurances that Townley would conceal additional information concerning Chilean intelligence activities—including contacts with rightist European terrorists—from U.S. prosecutors.

During the Letelier assassination trials, federal prosecutors presented extensive evidence that Townley, an American citizen, was a senior agent in Chile's intelligence service, then known as DINA, and had carried out the September 1976 assassination of Letelier and an associate, Ronni K. Moffitt, under direct DINA orders. The Chilean government, which refused to extradite three senior DINA officials who were indicted in the case based on Townley's testimony, at the time characterized Townley as a low-level functionary in the secret police who never was authorized to assassinate anyone.

Since then, Chile consistently has denied any connection with Townley, including payment of his legal and personal expenses. In September of 1978, for example, Gen. Cesar Mendoza Duran, a member of the Chilean junta, denounced Townley as "an agent of the CIA, the KGB and at the same time an agent of Cuba." Asked yesterday about the information contained in the Townley letters, Juan Prado, a spokesman at the Chilean Embassy, said: "This is another lie. Every statement Mr. Townley makes about Chile is false."

The letters originally were obtained from an unidentified source by Taylor Branch and Eugene M. Propper, a former assistant U.S. attorney who headed the prosecution team against Townley, and two Cuban exiles, who later were acquitted. Branch and Propper have written a book about the Letelier assassination due to be published in April. Last September, the authors turned over copies of the letters to the FBI, which has reviewed their contents and discussed them with Townley, who remains at an undisclosed prison serving the remainder of his plea-bargained sentence for conspiring to murder Letelier.

"The one thing you get from the letters is that he [Townley] was anything but low-level," said Lawrence Barcella, the assistant U.S. attorney now in charge of the Letelier investigation. "His knowledge of events and other intelligence operations belies his being a low-level functionary."

Based in part on leads taken from the letters, Branch and Propper assert in their book, titled "Labyrinth" that DINA and Townley were involved with other terrorist activities outside Chile, including an assassination attempt by Italian terrorists against former Chilean vice president Bernardo Leighton, who along with his wife, was critically wounded in Rome on Oct. 6, 1975.

Asked about these and related information contained in the book, Barcella said, "Townley has acknowledged enough of those things that I believe them to be true."

To date, the only publicly released information taken from the letters emerged last December, when federal officials confirmed a DINA plot in which Townley in 1976 smuggled a small quantity of deadly nerve gas into the United States for possible use on Letelier. The vial of nerve gas, disguised as a bottle of Chanel No. 5 perfume, was shipped back to Chile before the Sept. 21 attack on Letelier.

This week, the FBI is expected to turn over copies of the letters, or at least a summary of their contents, to members of Congress who have requested them as part of an investigation into Chile's human rights record. The Reagan administration last year persuaded Congress to lift a ban on U.S. arms sales to Chile, proposed by Sen. Edward M. Kennedy (D-Mass.) and adopted by Congress in 1976. But licensing for all such arms exports was conditioned on administration certification to Congress that the government of Chilean President Gen. Augusto Pinochet has improved its human rights record and has made progress in its own investigation of the Letelier killing.

So far, the administration has made no such certification. But the matter has taken on increased urgency this month to several U.S. arms and aircraft manufacturers that are seeking government licenses to export their wares for display in Chile during an international air show there next month.

David Kemp, the Chilean desk officer at the State Department, said that some firms have made "overtures" to department officials. "Some companies have made it clear they would like to participate, but they are being told that no applications can be approved until the certification is sent forward to the Hill," he said.

Kemp said the existence of the letters had been made known to State Department officials in an unclassified memorandum from the FBI, but he said he would not comment on "how we are considering them."

Based on his own knowledge of the letters from discussions with the FBI, Kennedy said in a statement yesterday that "one of the principal requirements which we in Congress imposed on any new security relationship with Chile was an end to the Pino-

chet regime's practice of aiding and abetting international terrorism. These letters are further confirmation of the regime's responsibility in this area."

"I believe there is no justification," Kennedy added, "for resuming any form of security relationship with Chile."

Barcella said yesterday that he was not qualified to comment on the current human rights performance of the Chilean military government, which seized power in a 1973 coup against elected leftist president Salvador Allende. "But with respect to progress on the Letelier investigation," Barcella said, "they (Chilean officials) haven't done spit since the day this thing happened. In fact, they have been dilatory and obstructionist."

Barcella said that when he and other prosecutors asked Townley whether DINA officials were paying the bills for his defense, Townley replied, "Don't expect me to answer questions that are going to kill the goose that laid the golden egg."

The bulk of the letters, most of which are typed and all but one of which are in Spanish, are addressed to the man Townley describes as his chief DINA contact, Gustavo Echepare. There is also one undated letter addressed directly to Pinochet and another 1979 letter to Gen. Odlanier Mena, head of the reconstructed Chilean secret police, renamed the National Information Center after the Letelier assassination.

In the letters, Townley laments that payments from his DINA contacts were too irregular and were causing great "insecurity" for his wife, Mariana, who lives in a DINA-owned house in Santiago, Chile, according to federal investigators.

In one Oct. 2, 1979, letter to Mena, Townley pleads: "From the time when this whole matter began, there have been answers to the necessities of my family and my legal defense. But each request has been delayed more than the one before, as if squeezing blood from a stone."

"Right now," the letter continues, "substantial sums are owed to my father and my lawyer's bill has not been paid since June . . . I can't say there hasn't been support, I repeat, there has been. Our necessities have been attended to, but inside all of this, something even more important has been lacking . . . it is . . . the sense that the help that is given to us comes from family and as a protection that will continue until it is no longer required."

Some long passages are devoted to providing Mena with derogatory information about Mena's predecessor, DINA chief Gen. Manuel Contreras, who was removed as the head of intelligence shortly before a federal grand jury in Washington indicted him and two other officials in August 1978 for ordering the Letelier assassination.

"Speaking of current accounts," the letter says, ". . . Mamo [Contreras' nickname] has at least one if not more current accounts open in conjunction with the CIA, accounts that they use to pay the service for work done for the CIA. . . ."

Barcella said that the investigation turned up records that show Contreras siphoned money out of DINA accounts by arranging for wire transfers through a U.S. stock brokerage house in Santiago to New York and then into a personal account he maintained at a Washington, D.C., bank.

Last night a CIA spokesman said the agency would have no comment on Townley's allegation.

When Chilean officials refused to extradite Contreras, then-president Carter imposed a number of sanctions against the government.

Authors Branch and Propper and federal law enforcement authorities assert that the Chilean intelligence service was involved in a much broader campaign of terror against its critics than was revealed during the two Letelier case trials. The two alleged Cuban accomplices in the killing were first convicted, then retried and acquitted last May.

The book says DINA in 1975 had a hit list of expatriate opposition figures and dispatched Townley, one of its top agents, to Italy to arrange for the murder of Chilean Socialist leader Carlos Altamirano. The authors say Townley teamed up with rightist Italian terrorist Alfredo di Stefano, whose code name was Alpha. Finding Altamirano too heavily guarded, Townley and Alpha focused their attention on Leighton.

In a June 29, 1979 letter to his DINA contact, Townley states that during his interrogation by federal authorities and the trial, at which he was the government's chief witness, "My only desire has been at every moment to divulge and give up the minimum possible so that the public is basically satisfied and to withhold everything else."

In an earlier letter in April, Townley expresses the fear that investigators were "going to go very hard with their suspicions about Italy."

Townley also offered his DINA contact a potentially embarrassing bit of information that could link Chile's president directly with the Italian terrorists who directed the attack on Leighton.

"For your information, Pinochet met with Mamo and Alpha in Spain a while ago [after the funeral of Spain's Gen. Francisco Franco]. Alpha could be more embarrassing for Mamo and the government in the long term than maybe even the Cubans."

Barcella said investigators have confirmed that Pinochet attended Franco's funeral, but not the alleged meeting between Pinochet and the Italian terrorist. Franco's funeral was in late November 1975, seven weeks after the attack on Leighton.

Mr. TSONGAS. Mr. President, I fully support the efforts of my colleague from Massachusetts to send the administration and the Chilean Government a clear message that the United States will not accept Chile's continuing disregard for basic human rights. I, too, am deeply concerned that the Reagan administration intends to reverse our policy toward Chile by developing a closer relationship with the Pinochet regime. The nomination of James Theberge as U.S. Ambassador to Chile is a clear symbol of the administration's changing perception of the Chilean regime and I am compelled to vote against his nomination.

The military regime in Chile has a long, well-documented record of deliberate and grievous human rights violations. The U.N. and numerous internationally recognized human rights groups such as Amnesty International and Freedom House have reported that the human rights situation in Chile continues to deteriorate. Among the rising tide of arbitrary detentions in Chile were the arrests of members of the Chilean Human Rights Commission last December.

In its human rights report to the Congress, the State Department further listed a number of human rights violations in Chile. For example, during 1981, at least 68 incidents of torture were reported to human rights organizations and most were allegedly perpetrated by members of the National Information Center (CNI) or civilian police.

Although the last reported disappearances occurred in 1977, about 635 cases from the period 1973–77 remain unresolved. Amnesty International believes this figure is higher. Despite the fact that the Chilean Supreme Court appointed special judges in 1979 to investigate many of these disappearances, the State Department reports that to date no one has been formally indicted. In addition while the Chilean Government has denied holding political prisoners, there are more than 218 persons in the judicial process charged with seditious activity.

Mr. President, the list of incidents involving human rights violations in Chile could go on. It is obvious that the oppressive nature of the Pinochet regime necessitates that our Ambassador to Chile be constantly vigilant and sensitive to the issue of human rights in that beleaguered country. By his testimony during his confirmation hearings, Mr. Theberge failed to convince me that he would be such an Ambassador. His responses to Senator KENNEDY's questions were clearly inadequate and demonstrated a marked insensitivity to the vital issue of human rights. For instance, he stated that "there has been a significant improvement in the human rights situation in Chile since 1977." This statement, however, ignores the significant continuing pattern of human rights abuses in Chile today.

That the administration would nominate Mr. Theberge as Ambassador to Chile is a clear testimony of its failure to show sufficient concern about the human rights violations and oppressive practices of the Pinochet government. Mr. Theberge is an undeniable symbol of this lack of concern and for that reason, I am opposed to his nomination.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PERCY. Mr. President, it is my understanding that there are no further statements to be made on this side. Senator HELMS is managing the nomination. While we await his return to the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER. The time to be equally divided?

Mr. PERCY. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. HELMS. Mr. President, I yield such time as the distinguished Senator from Mississippi may require.

Mr. COCHRAN. I thank the Senator from North Carolina.

Mr. President, I wanted to mention to the Senator that I have personally known the nominee, James Theberge, for a number of years, and our families are close friends. I have the very highest regard for him as a person and a deep respect for his abilities and background.

He has a deep commitment to the ideals and values of our country, and he has a wide knowledge of our Latin American friends.

He has been a student of Latin American and U.S. relations for over two decades.

During the Ford administration he served as American ambassador to Nicaragua. That was a very difficult period. He served there, however, with distinction in this sensitive assignment.

He has written extensively about Latin America. He knows the people well, he knows the culture, and he knows the language. It is my judgment that no one is better qualified than he to serve as our Ambassador to Chile.

I am confident that he will serve the President and the American people extremely well.

Mr. President, I thank the Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DANFORTH. Mr. President, James Theberge is well known to me, as well as to other Members of the Senate, for his expertise on U.S. relations with Latin America. We have known each other for 5 years, and I consider him to be extremely well qualified to represent U.S. interests in Chile as our Ambassador.

He has long been considered an expert on Latin American policy issues and served from 1975 to 1977 as U.S. Ambassador to Nicaragua, where he received high marks for his skill and professionalism. He served in the U.S. Embassy in the early 1960's, and was a member of the State Department's Fulbright Commission on scholarly exchange. He has authored and edited nine books on Latin America and Spain, and knows Latin America well, having lived and traveled in many countries in the region. He served as director of Latin American and Iberian studies at the Center for Strategic and International Studies at Georgetown University, just prior to his appointment as Ambassador to Nicaragua. He is fluent in Spanish and has a working knowledge of French, German, Portuguese, and Italian.

I hold James Theberge in the very highest regard as a scholar and diplomat, and I know that he will serve his country with distinction in Chile.●

Mr. HELMS. Mr. President, I yield back the remainder of my time.

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is, Will the Senate advise and consent to the nomination of James Daniel Theberge, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the nomination of James Daniel Theberge, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The PRESIDING OFFICER (Mr. ANDREWS). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 83, nays 12, as follows:

[Rollcall Vote No. 40 Ex.]

YEAS—83

| | | |
|---|---|---|
| Abdnor | East | Mattingly |
| Andrews | Exon | McClure |
| Armstrong | Ford | Melcher |
| Baker | Garn | Mitchell |
| Baucus | Glenn | Moynihan |
| Bentsen | Goldwater | Murkowski |
| Biden | Gorton | Nickles |
| Boren | Grassley | Nunn |
| Boschwitz | Hart | Packwood |
| Bradley | Hatch | Pell |
| Bumpers | Hatfield | Percy |
| Burdick | Hawkins | Pressler |
| Byrd, Harry F., Jr. | Hayakawa | Pryor |
| | Heflin | Quayle |
| Cannon | Heinz | Randolph |
| Chafee | Hollings | Roth |
| Chiles | Huddleston | Rudman |
| Cochran | Humphrey | Sarbanes |
| Cohen | Inouye | Sasser |
| D'Amato | Jackson | Specter |
| Danforth | Jepsen | Stennis |
| DeConcini | Kassebaum | Stevens |
| Denton | Kasten | Symms |
| Dixon | Laxalt | Tower |
| Dodd | Levin | Warner |
| Dole | Lugar | Weicker |
| Domenici | Mathias | Williams |
| Durenberger | Matsunaga | Zorinsky |

NAYS—12

| | | |
|---|---|---|
| Byrd, Robert C. | Johnston | Metzenbaum |
| Cranston | Kennedy | Proxmire |
| Eagleton | Leahy | Riegle |
| Helms | Long | Tsongas |

NOT VOTING—5

| | | |
|---|---|---|
| Schmitt | Stafford | Wallop |
| Simpson | Thurmond | |

So the nomination was confirmed.

(Later the following occurred:)

Mr. BAKER. Mr. President, as in executive session, I move to reconsider the vote by which the nomination of Mr. Theberge to be our Ambassador to Chile was confirmed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. BAKER. Mr. President, is there an order to proceed to the consideration of a resolution?

Mr. MOYNIHAN. Mr. President, may we have order? The majority leader is speaking.

The PRESIDING OFFICER. The Senator is correct. The majority leader is recognized.

Mr. BAKER. Is there an order now for the Senate to proceed to the con-

sideration of an unprinted resolution to be offered by the Senator from Pennsylvania?

The PRESIDING OFFICER. Yes.

Mr. BAKER. I yield the floor.

Mr. HEINZ. Mr. President, would it be in order for me to yield for a unanimous-consent request without losing my right to the floor?

Mr. MOYNIHAN. Mr. President, point of order, with great respect, only the Chair can recognize a Senator and not another Senator, is that not the case?

The PRESIDING OFFICER. That is correct.

The Senator from Pennsylvania has been recognized, and the Senator from Pennsylvania was asking a question whether it would be in order for him to yield to other Senators for a unanimous-consent request.

## IMPOSITION OF MARTIAL LAW IN POLAND AND RELEASE OF LECH WALESA

Mr. HEINZ. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 330) on the imposition of martial law on Poland and the release of Lech Walesa.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The resolution is submitted by Mr. HEINZ, for himself, Mr. HATFIELD, Mr. DOMENICI, Mr. EAST, Mr. MOYNIHAN, Mr. D'AMATO, Mr. RIEGLE, Mr. SARBANES, Mr. WILLIAMS, Mr. MURKOWSKI, Mr. HAYAKAWA, Mr. ROTH, Mr. INOUYE, Mr. LEVIN, Mr. KENNEDY, Mr. GARN, Mr. GRASSLEY, Mr. DODD, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. MATTINGLY, Mr. COHEN, Mr. HOLLINGS, Mr. MITCHELL, and Mr. ROBERT C. BYRD.

Mr. HEINZ. Mr. President, on February 24 and 25, the Central Committee of the Communist Party of Poland met for the first time since the imposition of martial law on December 13. Those meetings emphasize the fact that now is an absolutely crucial time in Polish history. It is a critical time for the future development of freedom and democracy in Poland, and, on a more personal level, it is a very critical time for Lech Walesa, the leader of Solidarity and other members of Solidarity.

Last week I think we all read reports in the American press that the Polish Army newspaper had made harsh accusations of criminal-like conduct against Walesa. Clearly the hard-line factions in the Polish Government and the Polish Communist Party are attempting to take full advantage of martial law to restore the repressive government of the past in Poland. The Central Committee meeting emphasized that fact when it issued a resolution threatening Solidarity members with severe punishment and promising to maintain strict social controls.

At this critical point it is vital that the Senate express itself on this matter and in doing so seek to discourage this faction and promote the restoration of the democratic reforms that Solidarity has worked so hard to achieve.

That is why I am proposing this resolution, which is cosponsored by a large number of Senators. This resolution will not by itself totally turn the tide. But it will be an important element of our overall policy, and I think if it is passed, as I expect it to be, it will put the world's greatest deliberative body, the U.S. Senate, clearly on record in support of the people of Poland and the Reagan administration's efforts on their behalf.

This resolution expresses the grave concern of the Senate over the continuation of martial law in Poland and the illegal incarceration of Lech Walesa and other Solidarity members, and it calls for their immediate release and the inclusion of Lech Walesa and other Solidarity members in any discussions and negotiations with respect to the future of independence and democracy in Poland.

I believe it is imperative that we keep the pressure on the Polish Government. We have to keep the pressure on for the restoration of freedom in Poland and for the release of imprisoned Solidarity members. The current meeting of the Central Committee to which I referred a moment ago gives us an excellent chance to send that message in clear and unmistakable language at a critical juncture in Polish history.

I might add that only last week the Banking Committee, of which I am a member, addressed the dilemma of the Polish debt. That particular crisis presents us with an opportunity to reaffirm our own system. It presents many challenges. And in doing so it provides an opportunity to use leverage, and I believe that the question is not whether or not we should use leverage. I believe the only real question is how to use it.

The problem is complex; the hope for freedom and economic recovery for the people of Poland is clouded by the threat of continued repression and deprivation; the possibility of effective Western action is threatened by the possibility of allied disarray.

The iron fist of Soviet domination has gripped all of Eastern Europe since the end of the Second World War and the Soviets have acted ruthlessly to maintain their hold. Soviet tanks rolled in and crushed the Hungarian revolt, and this same turn of events surfaced again in 1968 during the crisis in Czechoslovakia. Now we are confronted with Soviet-inspired martial law in Poland, and while the Soviets have not entered directly into Polish internal affairs, that possibility could swiftly become a reality.

Lest anyone doubt exactly what is going on in Poland, I shall quote to my colleagues a very penetrating observation that Susan Sontag made recently regarding the situation in Poland:

> Indeed future fascist coups d'etat will certainly imitate the Polish coup. No one had ever thought of turning off the phones for an indifinite period. No one had ever thought of a permanent curfew. No one had ever thought of forbidding the sale of gasoline for private cars. Banning all public meetings. Stopping the sale of rucksacks and of writing paper. Draconian measures that are not for 48 hours but simply a new way of life.

That is what we are going on record against, in this case with some specificity.

The question, I believe, is not whether the West should use its leverage to influence affairs in Poland and the broader course of East-West relations; the question is how. It is our responsibility to search for options that will provide us with the leverage we need to affect the course of future policy within Poland, to aid the cause of Lech Walesa and Solidarity, and to restore unity in the Western alliance.

With regard to Lech Walesa and Solidarity whose cause we seek to aid, I say that during the past 2 years Mr. Walesa, as the leader of the Solidarity movement, and other trade union movement heads have risked their lives in an effort to promote democratic reforms in Poland. They have challenged the Polish Government on a number of issues including the right to strike and recognition of trade union movements and they—at least until last year—won major concessions. I feel that it is our responsibility to make every effort to assure that these concessions are preserved and that Lech Walesa and Solidarity are free to continue their work.

If this resolution will in any way serve to discourage such a possibility of criminal action against Walesa, it will have more than served its purpose. But it will also put us clearly on record once again expressing the Senate's hope that the democratic reforms for which Solidarity has worked so hard will not be lost to history but will become a permanent part of the Polish political system.

Mr. President, in closing, I bring to my colleagues' attention a resolution that was adopted by the Polish-American Congress, Eastern Pennsylvania District, which is part of the Polish National Alliance of the United States in North America. The resolution expresses the Polish-American Congress views regarding the crisis in Poland

and other matters affecting Poles in the United States.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of this resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

(Adopted by the Annual Meeting of the Polish-American Congress, Eastern Pennsylvania District, January 31, 1982, Philadelphia, Pennsylvania)

1. Representing 250,000 persons of Polish Lineage, we are gravely concerned for the Polish Nation and the plight of the Polish people in their heroic struggle for economic, social, and ideological justice under godless governments that have inflicted martial law on the masses already suffering starvation and repression from the Communist system.

2. We condemn the Soviet Union for instigating, its puppet Polish Military Communist Regime for instituting, and Polish Communist Parliament for legalizing "a state of war" against the oppressed people of Poland.

The deceit and cruelty of martial law by the Communist regime of Poland, acting as surrogates of the Soviet Union, and the deployment of Polish-speaking Russian troops, dressed in Polish Army uniforms dispersed among Polish troops constitute an invasion by proxy by Russia's godless pillagers—an "internal" invasion of convenience to "remedy" the failure of Communism in Poland and other Soviet Bloc nations.

3. Soviet intentions of world domination have been progressively bolder in the past four decades. Soviet agents murdered 20,000 captive Polish officers and intellectuals in the Katyn Forest, a crime which has been conveniently forgotten. The seed for the planned world conquest was planted at the Yalta and Postdam Conferences. It was during this time that Poland and other Eastern European nations were "surrendered" to the Stalinist Russian yoke of tyranny. The Soviets and Polish Communists pledged at that time that there would be free elections—to give the people an opportunity to choose. This never happened. It is a sad commentary, but true that the United States and Great Britain must bear the guilt for their senseless act.

It should be noted that during these 38 years of Communist domination there have been other riots in Poland for food, protesting higher prices and other injustices. Russian tanks crushed the revolt of Hungarian patriots in 1956 and Czechoslovakia in 1968. In 1980, the Soviet Union invaded Afghanistan and has engaged in genocidal chemical and gas warfare.

In May 1981, His Holiness Pope John Paul II (Karol Wojtyla) was shot by an assassin. We are inclined to give full credibility to Italian authorities' theory that this was an act of planned international terrorist conspiracy. The theory concludes that the assassination of the Holy Father, at a time when Stefan Cardinal Wyszynski lay near death, would eliminate Poland's vital spiritual leadership and weaken the Solidarity movement toward collapse, setting the stage for resurgence of a strong Communist Government and reducing the need of Soviet involvement or military action.

We rejoice that His Holiness has recovered from his ordeal, and vigorously support His continuance of spiritual leadership in the worldwide struggle for human rights and peace.

4. We commend and fully support the Solidarity, its courageous leader Lech Walesa and its ideals; and we renew our commitment to the goals it espouses. We pray for his and other Solidarity members safety. The Solidarity movement is a miraculous accomplishment that has caught the imagination of the world. Ironically, martial law has strengthened the Solidarity and magnified its meaning. It is more than a Polish involvement. It is a worldwide movement.

We are very grateful to the people of Southeastern Pennsylvania and New Jersey and other communities for their sympathy and support of the Polish people and Solidarity through financial and food contributions. We appreciate the participation of Federal, State and local government officials and labor unions in related events sponsored by the Polish American Congress Eastern Pennsylvania District.

5. We appeal to all freedom loving people for continued support of the people of Poland by contributing to the Polish Fund of the Polish American Congress.

6. Mindful of and protesting the suffering inflicted by martial law, we are seriously concerned about the welfare and health of Lech Walesa and the thousands of Solidarity members and other Polish citizens who have been interned in "concentration type" prison camps without proper heat and clothing or sanitary facilities. Solidarity is an idea of hope and faith and, in unity, a search for human dignity of working people. People are being unjustly imprisoned, but their desire for self worth and well-being, the yearning for freedom in a just society will continue to flourish freely.

7. We accept and support the United States Government sanctions against the Polish military regime and the Soviet Union as very necessary measures and understand that President Reagan has commendably encouraged assistance to the Polish people through private channels. We urge that the Federal Government take stronger measures against the Soviet Union and the Polish Government if the crisis in Poland worsens in repression of the Polish people. However, simultaneously, we respectfully encourage President Reagan to provide relief to Poland's ailing economy at an appropriate time, when it is deemed in the best interest of the suffering people of Poland.

8. We deeply mourn the death of Stefan Cardinal Wyszynski, Primate of Poland, who was the champion of human rights for the people of Poland; and welcome his successor, His Excellency Archbishop Joseph Glemp with affectionate affirmation of support to continue the pastoral and social work of Cardinal Wyszynski.

9. His Eminence John Cardinal Krol, Archbishop of Philadelphia, and Aloysius A. Mazewski, National President of the Polish American Congress, have been devotedly involved in arranging aid to the Polish people on a world-wide scale. We appreciate and commend their dedicated leadership, which has brought global focus on Polish American concern for the long-suffering people of Poland.

10. The Federal Government-sponsored show "Let Poland Be Poland" will be aired world wide on January 31. We urge television networks in the Delaware Valley to air this one hour production. It would be a well-justified public service.

11. Recognizing the changes that are taking place in the structure of our Polish American society, where new generations of native born Americans of Polish Ancestry are entering upon the stage of life, we wholeheartedly advocate:

a. An expansion of educational aid to our younger generations.

b. Full and consistent support of their aspirations, goals and pursuits in all walks of life, in politics, in business, in scientific aspirations and other endeavors.

12. Demographic statistics project that there will be more senior citizen Polish Americans in the next two-decades. We urge compassion and consideration to their needs and well being, and support their aspirations and pursuits in various endeavors.

13. Bearing in mind the importance played by Poles and Americans of Polish descent in the struggle for American Independence and also their vast and lasting contributions to the present greatness of Philadelphia, Pennsylvania, and other communities and causes throughout America, we urge that Americans of Polish descent be given, well deserved, greater representation in Federal, State and local governments.

Long Live His Holiness Pope John Paul II.

Long Live A Truly Free Poland.

Long Live the United States of America.

Long Live Solidarity and Lech Walesa.

Mr. HEINZ. Mr. President, I am happy to yield to my friend and colleague from New York.

Mr. MOYNIHAN. Mr. President, I rise as a cosponsor of the resolution the Senator from Pennsylvania has introduced. I thank him for the opportunity to join him in it.

I would make but two observations in the aftermath of his own eloquent statement. First, Mr. President, several weeks ago on the floor of this body, the U.S. Senate had the opportunity actually to do something about the imposition of military rule in Poland and the scattering of forces of Solidarity by following our own laws and declaring in default the loans, which, having been guaranteed by the Commodity Credit Corporation, the lenders applied for restitution. It was the fixed practice of the CCC to require in that event the normal commercial procedure of a declaration of default. In the dark of the night, I fear it was determined in the White House that this would not happen. And when the resolution that the Senator from Wisconsin—who I am happy to see in the Chamber, my learned and distinguished friend—and I introduced, the forces of the Department of State were brought to bear, the matter was put over, and in the end, to what I think will not be our credit years hence, we, by a somewhat more or less narrow margin, declined to do what we, in any event, felt ought to have been done. Even so, that option remains and we have before us this resolution which I can imagine the whole of the Senate would wish to support.

I wish it recorded for the record and to be heard in the Eastern capitals that this resolution declares that the detention of Lech Walesa is a clear violation of the Helsinki accords final acts.

Mr. President, if the Government of Poland has violated that act in the clearest collusion under the direction of the Government of the Soviet Union, it remains an option of the United States of America and the other signatories in Western Europe and Canada to declare that our own endorsement and signature to the Helsinki accords can be suspended. It having been unilaterally abrogated by the Eastern bloc, the case overwhelmingly could be made that it no longer binds the democratic nations. Surely the Soviets would want to take note of the judgment of the Senate in this matter.

I would like, unless there is a different view, it recorded that this resolution declares that the United States has grounds for disassociating itself from the Helsinki accords.

I thank the distinguished Senator from Pennsylvania for this opportunity to join him in this matter.

Mr. HEINZ. Mr. President, I thank the distinguished Senator from New York for his eloquent words, his pertinent suggestions, and for his excellent record on this issue. I refer, in particular, to the amendment that he and the Senator from Wisconsin introduced only last week.

I yield to the Senator from Wisconsin.

Mr. KASTEN. I thank the Senator from Pennsylvania. I congratulate the Senator on this resolution which I am confident will pass with a very solid majority.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. KASTEN. Yes.

Mr. HEINZ. Mr. President, I think we better get the yeas and nays. I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. I apologize to the Senator for interrupting.

Mr. KASTEN. Mr. President, it is my hope that this resolution is just the beginning of a commitment that we in the U.S. Senate make to continue to put pressure on the Soviet proxies who are now in charge in Poland, and on the Soviet Union itself. Today I introduced a bill which would prohibit the Treasury or other Government corporations, such as the Commodity Credit Corporation, from paying on loan guarantees or agreements unless the borrowing country has officially been declared in default.

I thank the Senator from New York for his kind words. He and I introduced a Polish debt amendment on the Commodity Credit Corporation emergency supplemental appropriation bill and came within nine votes of acknowledging Polish default on loans from the West. My bill would address the Polish debt problem, but it would also include Romania and other countries if, in fact, this begins to be a continuing problem.

So I rise in support of this resolution of which I am proud to be a cosponsor, but I hope we can go further.

This morning, as chairman of the Foreign Operations Appropriations Subcommittee, we held hearings. This was one of a series of hearings we are having on the subject of the Polish debt. This morning, among our witnesses was a member of Solidarity who, on the day of the crackdown, happened to be in New York City. His name was on the list of those to be arrested. He is now a visiting lecturer at Yale University. We were proud to have him come down and speak to us.

His position was that we must continue to keep the pressure on the Soviet proxies who are now in charge in Poland and on the Soviet Union. It is up to Congress to expose the folly of the current situation, where we seem to be barking louder and louder but our bite grows softer and softer.

Also at our hearing today we had the head of the Polish-American Congress. He spoke out on the same point. I am pleased that the Senator has included a resolution passed by the Polish-American Congress as part of the RECORD today.

I enthusiastically support the efforts of the Senator from Pennsylvania.

But I want to say, as chairman of the Foreign Operations Subcommittee of the Appropriations Committee, that I intend to continue hearings on the issue of Soviet bloc debt and, if necessary, to force a vote on default once again. This issue is of critical importance to our credibility abroad, our credibility both with our allies and with our adversaries.

I thank the Senator for yielding.

Mr. HEINZ. Mr. President, I not only thank the Senator from Wisconsin for his words but recognize in particular his leadership and great initiative in pursuing the issue of default, not just by Poland but by other Eastern bloc countries. I deeply appreciate his support for this resolution and everything he is doing to try to make sure that those freedoms that we take for granted here in this country do not disappear in the rest of the world.

Mr. PERCY. Will the Senator yield for a question?

Mr. HEINZ. I am happy to yield to my friend and colleague from Illinois.

Mr. PERCY. Mr. President, one of the whereas clauses that I was interested in indicates that:

> No useful and reliable information has been made available by the Polish Government regarding the whereabouts or the condition of Lech Walesa.

Is there information that we do have about the well-being, the condition of Mr. Walesa, who is engaged in obviously nothing but political activities aimed to benefit and improve the rights of workers in a society presumably devoted to the well-being of workers? Has there been any authentic information made available to the world as to his whereabouts, exactly where he is, why he has been detained, what the charges are against him, and why he is not able to engage in a practice that you would think a government taking into account the well-being of workers and a recognized spokesman who, overnight, has built an organization of millions of people, certainly that voice should be heard from. Where is he?

Mr. HEINZ. Mr. President, I think the point that the Senator is making is entirely correct. To answer the Senator, to the best of my knowledge, there are only the pronouncements of the Government, the martial law Government in Poland, that Lech Walesa is alive. They say he is well. But there is no independent corroborative information from anybody that I would have any confidence in.

At this moment, about the only information we have is that Lech Walesa sent a message out with a priest saying that any report that he had signed anything was false, and no one knows what the situation is beyond that. The fact is we have no good information, no reliable information of any kind, that this Senator is aware of. The Polish Government is stonewalling it. Hopefully, we can break down that wall with steps such as the one we are taking today.

Mr. PERCY. I commend my distinguished colleague for his resolution, which I am proud to cosponsor. Let us hope that we do have some word where Walesa is so that he can continue to carry on work which is embraced in the framework of the Helsinki accord, to which the Soviet Union has become a solemn signator.

If that commitment has been made, why not let us fulfill it? It can be done, certainly, through this one person who is a symbol that people do have and should have a right to speak out for their willingness and their desire to further the interests of the working people of Poland.

Mr. HEINZ. I thank the Senator. I think he is entirely right. I would only emphasize that this resolution refers not only to Lech Walesa, but to all others who are detained for political acts, and calls for their release from detention forthwith.

Mr. ROBERT C. BYRD. Mr. President, I want to commend the senior Senator from Pennsylvania, Mr. HEINZ, for offering this resolution calling for the release of Lech Walesa and other political leaders in Poland. I welcome this opportunity to join with him in sponsoring this resolution.

What is happening in Poland today epitomizes the hyprocrisy of Soviet-

bloc totalitarianism. On April 9, 1981, I delivered a speech before this body stating that the ongoing crisis in Poland presented the international community with a classic example of the contradictions between the theory and actual practice of communism.

The Bolshevik Revolution of 1917 was premised on the theory that the peasants and workers—the proletariat—had historically represented the exploited and oppressed classes of the world. Communist ideology promoted the idea of a completely classless society, wherein the exploitation and oppression of the proletariat would cease.

Solidarity began as a small, almost obscure, union in the shipyards of Gdansk. It grew to encompass 10 million industrial workers from the coal miners of Silesia to the factory workers in the major cities, and spread to the rural areas to encompass the peasant farmers.

Why was Solidarity so successful in such a short period of time? The answer is simple. The Communist Party elite in Poland, as elsewhere in the Eastern bloc, is a symbol of corruption and privilege in a supposedly classless society. This position of privilege was built upon the backs of those very people—the peasants and workers—who were in the vanguard and who were the supposed beneficiaries of the Russian revolution of 1917.

Solidarity has, therefore, become the most glaring example of the continuing exploitation of the proletariat in the Eastern bloc for the past 65 years. Far from evolving into the dictatorship of the proletariat or into classless societies, we have witnessed the emergence and perpetuation of a new elite—a Communist bourgeoisie who enjoy a standard of living far beyond the reach or dreams of the proletariat in their countries.

Solidarity challenged this system of corruption and oppression. Solidarity has come to represent the failure of communism. Solidarity was more than just an independent trade union. It represented a union of workers who realized that the Communist system had not met and would never meet their basic needs. It did not deliver food to their tables, meaning to their jobs, happiness to their lives, or hope for their futures. In essence, the Polish people, through Solidarity, were trying to establish a system which worked for them.

What this resolution actually says is that the proletariat in Poland deserve to participate in the political and economic decisionmaking processes of their government. That they are denied this opportunity only exposes the Communist system for what it really is—an oppressive and corrupt minority who fear the masses of their own people.

Passage of this resolution will send a strong signal to the martial law leaders in Poland and the Soviet leaders that the U.S. Senate sees this crackdown for what it really is—the continued exploitation of the workers and peasants of the Easten bloc.

Mr. PERCY. Mr. President, I join my colleague Senator HEINZ in this resolution as a cosponsor and strong supporter.

I particularly wish to underscore the next to last whereas clause of the resolution: "Whereas no useful and reliable information has been made available by the Polish Government regarding the whereabouts or condition of Lech Walesa."

Two and a half months have indeed passed since the imposition of martial law in Poland without authoritative news of Walesa and the other detainees.

It is high time that we call on their behalf for the release of Lech Walesa and others detained in Poland for political reasons, and that Walesa and other detained Solidarity leaders be allowed to participate freely in negotiations on the future of Solidarity and Poland.

LECH WALESA MUST BE RELEASED

Mr. KENNEDY. Mr. President, I am pleased to cosponsor this resolution calling for the release of Lech Walesa and other members of the Solidarity trade union movement who have been detained since the imposition of martial law in Poland on December 13.

It has been almost 3 months since the people of Poland have heard from Lech Walesa, and his detention becomes more ominous each day. The crackdown and subsequent roundup of political opponents by the Jaruzelski military regime has destroyed any trust that the Polish people had for their Government. Despite efforts by the regime to crush Solidarity, indications are that popular discontent is spreading. Recent reports indicate that the Polish militia arrested over 4,000 Poles who violated the martial law decree.

By holding Lech Walesa and continuing its policy of repression, the Jaruzelski regime is feeding popular discontent and further enlarging the rift between worker and Government that threatens to fracture this troubled nation. What Poland needs more than ever is the return to voluntary political accommodation, economic reform, and the democratic process, and the only way this can be achieved is by the release of Lech Walesa.

Mr. President, the achievements of Solidarity brought new hope to the Polish nation and to all who care about the cause of Polish freedom. I call upon my colleagues to support this resolution presently before the Senate, and through this resolution, to help gain the release of the men and women who have done so much in the past to assure Polish freedom, and who are the only ones who can now save Poland from tragedy.

Mr. HEINZ. Mr. President, if there are no other requests to speak, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP), would each vote "yea."

The PRESIDING OFFICER (Mr. HATCH). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—94

| | | |
|---|---|---|
| Abdnor | Exon | McClure |
| Andrews | Ford | Melcher |
| Armstrong | Garn | Metzenbaum |
| Baker | Glenn | Mitchell |
| Baucus | Gorton | Moynihan |
| Bentsen | Grassley | Murkowski |
| Biden | Hart | Nickles |
| Boren | Hatch | Nunn |
| Boschwitz | Hatfield | Packwood |
| Bradley | Hawkins | Pell |
| Bumpers | Hayakawa | Percy |
| Burdick | Heflin | Pressler |
| Byrd, Harry F., Jr. | Heinz | Proxmire |
| | Helms | Pryor |
| Byrd, Robert C. | Hollings | Quayle |
| Cannon | Huddleston | Randolph |
| Chafee | Humphrey | Riegle |
| Chiles | Inouye | Roth |
| Cochran | Jackson | Rudman |
| Cohen | Jepsen | Sarbanes |
| Cranston | Johnston | Sasser |
| D'Amato | Kassebaum | Specter |
| Danforth | Kasten | Stennis |
| DeConcini | Kennedy | Stevens |
| Denton | Laxalt | Symms |
| Dixon | Leahy | Tower |
| Dodd | Levin | Tsongas |
| Dole | Long | Warner |
| Domenici | Lugar | Weicker |
| Durenberger | Mathias | Williams |
| Eagleton | Matsunaga | Zorinsky |
| East | Mattingly | |

NOT VOTING—6

| | | |
|---|---|---|
| Goldwater | Simpson | Thurmond |
| Schmitt | Stafford | Wallop |

So the resolution (S. Res. 330) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 330

Whereas, the American people sympathize deeply with the struggle of the Polish people to create indigenous democratic institutions including independent trade unions which reflect their own history and values;

Whereas, the American people and the citizens of Poland have traditionally shared a close and lasting bond that has been strengthened by the establishment of the independent Solidarity trade union movement;

Whereas, Lech Walesa the leader of the Solidarity movement, has been recognized both within Poland, and throughout the rest of the world, as the single most important and influential leader of the Polish workers, and of all those who seek democratic reform in Poland;

Whereas, Solidarity represents an independent trade union that is supported by the overwhelming majority of the people and is trying to form a mutually beneficial relationship between government and workers;

Whereas, Poland is a signatory to the Helsinki Final Act of 1975 which obligates the signatories to respect and maintain conditions of freedom and diversity within their respective countries;

Whereas, approximately two months have passed since the imposition of martial law in Poland which has resulted in the incarceration of thousands, including Solidarity leader Lech Walesa;

Whereas, no useful and reliable information has been made available by the Polish government regarding the whereabouts or condition of Lech Walesa; and

Whereas, the continuing detention of Lech Walesa is a clear violation of the Helsinki Final Act, to wit, that participating States will respect human rights and fundamental freedoms: Therefore, be it

*Resolved* That it is the sense of the Senate that:

Lech Walesa as well as others detained for political acts be released from detention forthwith;

Lech Walesa and other Solidarity members be permitted to participate in ongoing discussions and negotiations concerning the future of Solidarity, as well as the future of democratic reform in Poland;

Lech Walesa and other Solidarity members be permitted to comment on the situation in Poland, and allowed to travel freely both within Poland and abroad.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## STANDBY PETROLEUM ALLOCATION ACT OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a conference report on S. 1503.

Mr. McCLURE. Mr. President, I submit a report of the committee of conference on S. 1503 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HATCH). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1503) to authorize the President to allocate supplies of crude oil, residual fuel oil, and refined petroleum products during a severe petroleum supply shortage, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of February 22, 1982.)

Mr. BAKER. Mr. President, is there a time limitation on debate on this measure?

The PRESIDING OFFICER. The majority leader is correct. There is 1 hour equally divided and controlled by the chairman of the committee and the ranking minority member; 1 hour allotted to Senator BRADLEY, and 30 minutes allotted to Senator NICKLES.

The yeas and nays have been ordered.

Mr. BAKER. I very much hope this matter can be disposed of and to have final passage of the conference report before the Senate recesses today.

Based on the unanimous-consent request the Chair has just repeated, it may put us just a little past the usual recess hour of 6 o'clock. I would expect not much. If Senators do not use all of the time that is provided for in the agreement, it is still possible that we can finish this matter and recess the Senate at approximately 6 p.m., which would be my hope.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I yield myself 5 minutes.

Mr. President, today the Senate will consider the conference report on S. 1503, the Standby Petroleum Allocation Act of 1982. This act provides the President basic authority to allocate petroleum supplies temporarily in the event of a severe petroleum supply shortage. It also requires the President to devise a standby Federal allocation program to insure that the United States is fully prepared to respond effectively to a serious petroleum supply shortage. As my colleagues will remember, S. 1503 passed the Senate on October 29, 1981, by a vote of 85 to 7. The House passed a similar bill by a substantial majority on December 14, 1981.

Two weeks ago the conference agreement on these bills was completed. In my opinion, the conference agreement reconciles the differences between the Senate and House bills in a very satisfactory manner. A careful reading of the conference report shows that it incorporates in large part the Senate bill as passed. The conference report received the unanimous approval of the Senate conferees and deserves the overwhelming endorsement of this body.

Since the Emergency Petroleum Allocation Act expired on September 30, 1981, the President has been without basic general authority to allocate petroleum supplies in the event of a severe petroleum shortage. The massive bipartisan support that S. 1503 has received reflects the general recognition that the President should have such authority and should conduct effective contingency planning for oil emergencies. Prior to explaining the major provisions of the conference agreement, I think it would be worthwhile to review briefly the principal reasons that this legislation is so essential.

Last summer, in view of the impending expiration of the EPAA, the Senate Committee on Energy and Natural Resources held hearings on what the role of the Federal Government should be during severe disruptions in petroleum markets and what type, if any, new legislation would be necessary for the Government to fulfill that role. During 2 days of oversight hearings and 2 days of legislative hearings, the committee received testimony on these issues from witnesses representing a broad spectrum of interests.

The witnesses before the committee universally agreed that an unregulated market should establish price and allocate supply to the maximum extent feasible. A few witnesses—notably the administration's and the energy analysts—argued that the history of Federal intervention in the petroleum marketplace since 1973 demonstrates that such intervention should never be permitted to recur.

However, the overwhelming majority of the witnesses expressed the view that the free market would not function adequately in allocating supplies in certain circumstances during a severe petroleum-supply shortage, and that rural areas, in particular, might be disadvantaged.

Although views differed as to the priority that should be given to allocation controls and the appropriate point at which such controls should be imposed, it was the firm consensus of all segments of the petroleum industry that the President should have the authority to intervene in the marketplace when warranted by the severity of the shortage.

Testimony that reviewed the body of authority surviving the EPAA unanimously concluded that general clear authority to impose allocation and price controls would not exist after the EPAA expired.

However, witnesses expressed virtually no support for extending the EPAA. Instead, the consensus was that new legislation should be enacted which would avoid the excesses of the EPAA yet provide the President with allocation authority that is sufficiently broad and flexible to tailor a Feder-

al response to the scope, impact, and duration of a petroleum supply disruption. S. 1503 was the product of that consensus.

S. 1503 embodies a compromise. The compromise is an attempt to reconcile the views of those who believe that Government intervention in the market is always counterproductive with those who believe that such intervention may be essential during a severe petroleum supply shortage.

Our past experience with petroleum disruptions indicates that the public would not have confidence in the ability of the marketplace to allocate supplies adequately. Should a severe disruption occur, the marketplace may not respond quickly enough to maintain adequate supplies for certain critical needs.

In particular circumstances, Federal allocation may be essential as the only means of preventing or limiting widespread economic hardship or damage. For example, were there no Federal allocation program and a shortage occurred during peak planting or harvesting periods, it might be necessary to reduce or defer agricultural operations in certain areas until adequate supplies become available.

A severe shortage could thus cause essential farming operations to be curtailed or even terminated.

Moreover, our past experience with petroleum disruptions indicates that significant numbers of consumers heavily dependent on petroleum might begin hoarding supplies, anticipating that some areas of the country might bid away supplies from other areas or that price increases would render petroleum products unaffordable.

During any nationwide shortage, hoarding would pose a serious problem because it creates an artificial demand at the very time that demand must be restrained, thus aggravating the supply shortage and accelerating price increases.

The need to assure the public, particularly during the early stages of a supply disruption, that petroleum products would be available in their area is a compelling reason for authorizing a Federal standby allocation program that could be activated if necessary.

A major petroleum supply disruption is a national problem that demands a coordinated national response. Only the Federal Government can organize such a response. If the Federal Government does not provide that coordination, State and local government might feel compelled to act unilaterally to deal with a shortage.

The possibility for such uncoordinated actions already exists. Unless the Federal Government asserts control, the multiplicity of often conflicting State and local laws already on the books could disrupt commerce and exacerbate the impact of a shortage on the Nation as a whole.

The conference report on S. 1503 reflects these considerations. Its purposes are to grant the President limited and temporary authority to allocate crude oil and petroleum products, in his discretion, in the event of a severe petroleum supply shortage, and to minimize the adverse impacts of such a shortage on the American people and the domestic economy.

The President's determination of a severe petroleum supply shortage is not restricted to conditions which are national in scope but may also be made on the basis of circumstances in a specific region, which may include one or more States or political subdivisions thereof.

The conference agreement stressed the breadth of discretion and range of options available to the President in allocating petroleum. In this regard, the statement of manager stated:

The authority delegated to the President under this Act is intended to provide the President with maximum flexibility to implement an allocation program which is consistent with the provisions of this Act and, in his judgment, is best suited to the particular shortage at hand. Thus, subject to the provisions of this Act, the President, in his discretion, may, for example, choose to limit allocations to a single category of petroleum product, to certain classes of end-users, or to allocations of crude oil among refiners, and may choose to implement the program throughout the United States or in any region of the United States.

The conferees adopted the Senate provision stating that nothing in this act shall be construed to require that any action taken under this act be taken in a manner which would have been required under the EPAA.

As the statement of managers notes:

The President's allocation authority under this Act is discretionary, not mandatory as it was under the EPAA. The fundamental concept behind the conference agreement is recognition that the nature and scope of a severe petroleum supply shortage is inherently unpredictable, and therefore, the President needs the capability and flexibility to tailor his response to the particular circumstances facing him. The basic philosophy behind this Act is broad flexibility and minimum government involvement in the marketplace.

The conference report provides that, upon enactment of the Federal law, any provision of a State law or regulation would be superseded to the extent that such law or regulation provides for allocation or pricing of petroleum products.

This provision reflects the general policy that the decision as to when and to what extent to replace market mechanisms with mandatory price and allocation program in the petroleum industry is a Federal decision, and State laws that would usurp this Federal role should be preempted.

However, the President would be authorized to prescribe by rule certain classes or categories of exceptions to this preemption. As the Statement of Managers states:

In determining whether a particular State law or regulation is encompassed by the terms "pricing" or "allocation," and is thereby preempted, it will be necessary to consider both the purpose and actual effect of the State law or regulation as well as the purposes of the preempting Federal legislation. Another consideration is whether a State law would significantly impede the operation of the Federal allocation program if implemented. Although certain laws will not be preempted upon enactment of the Act, some of those laws ultimately may actually conflict with implementation of the Federal program during a severe petroleum supply shortage. In that event the conferees anticipate that such conflicts will be resolved by the courts in favor of the Federal requirements superseding those of the States.

The conferees agreed to require the President to promulgate a regulation on a standby basis within 180 days of enactment subject to a layover before the Senate and House of 30 calendar days. In promulgating the regulation, the President is required to provide an opportunity for public hearings in various regions of the United States and for participation by executive departments of the Federal Government in the formulation of the standby regulation and in the hearings.

The conference report uses the Senate term "severe petroleum supply shortage" to describe the trigger for the Federal program, because a severe petroleum supply shortage could arise in a variety of ways, many of which may be unpredictable. The term has been defined with flexibility rather than specificity. The definition provides the President with broad discretion to seek the imposition of allocation controls when, in his judgment, a petroleum supply shortage is sufficiently severe to meet the general criteria specified in the definition, and may not be reasonably manageable by reliance on free market pricing and allocation or under other available authorities.

The conference agreement requires a crude-sharing program to be included in the standby regulation. In the event of a severe petroleum supply shortage, the President, at his option, could use this program to require limited sales of crude oil among refiners. As explained in the Statement of Managers:

For example, in accordance with this section, the President, it he deems it appropriate, could choose to allocate crude only between two refiners in the implementation of the crude-sharing program. Use of the crude-sharing program as an intermediate step might provide the President with an effective means for coping with a petroleum shortage with a minimum of government intervention, and, in particular, without the necessity of resorting to the general price and allocation authority under this Act.

The conference report incorporates the Senate provision to make clear

that the standby regulation may include limitations on the price of allocated supplies only to the extent that the President finds that such limitations are necessary to insure effective implementation of the regulation.

The conferees agreed to a new provision on State set-asides that reflects certain elements of the House and Senate versions. The provision preempts State set-aside programs as of the date of enactment of this act; however the President may in his discretion and upon request from a State Governor in an emergency situation, affirmatively exempt certain programs from preemption provided that the programs meet certain specified criteria.

However, if a Federal program for residual fuel oil or a refined petroleum product is implemented in a State, the Federal State set-aside program for that State would replace the State program.

The conferees also adopted a modified version of the House provision which creates a statutory right of protection from regulation for certain inventories of petroleum products held by consumers. Under the conference agreement, protected inventories are those that are owned and in the direct possession of a consumer on the day before the date the President determines a severe petroleum supply shortage exists.

In addition, the inventory must be for such consumers' own end-use consumption and not thereafter sold or exchanged by the consumer. The amount of protected inventory cannot exceed the amount of inventory held by and in the custody of that consumer on the 30th day prior to the date of the President's determination.

Inventories owned by a consumer and in the direct possession of the consumer, such as on the consumer's site, are categorically protected by this provision. In addition, the President may in his discretion provide a statutory protection to any other inventory owned by a consumer.

The intent of this provision is to provide an incentive for the build-up of privately held inventories. The conferees intended that the inventory protection would cover inventories held by a consumer in accordance with his normal business practices.

Thus, the location or manner of storage of the inventory is not the test for determining whether an inventory is in the direct possession of a consumer and therefore qualifies for statutory protection.

Inventory held by a consumer in its own onsite storage facilities would plainly qualify.

Moreover, inventories held in offsite facilities, leased facilities or any other manner consistent with the consumers' normal business practices would also be considered to be in the direct possession of the consumer and therefore would also qualify for statutory protection.

A refiner's inventories are protected by this provision only to the extent that they are used by the refiner to meet fuel requirements necessary for operating its equipment and facilities during a severe petroleum supply shortage.

Such protection for refiners is necessary to insure that the shortage will not interfere with the continued operation of this Nation's refineries during a severe petroleum supply shortage.

Needless to say, the restriction of a refiner's inventory protection to necessary fuel requirements does not, of course, apply to companies such as petrochemical plants that are affiliated with a refiner.

Such companies would not lose their status as consumers merely because they were in some way affiliated with a refiner.

Some would suggest that this conference report is philosophically incompatible with the free market orientation of the Reagan administration. It most certainly is not.

The bill specifically premises its grant of discretionary statutory authority on the condition that market reliance as well as other authorities available to the President are not adequate to deal with a severe petroleum supply shortage.

Only then, after reliance on market forces and other authorities is exhausted would the President activate this standby allocation authority.

Similarly, price controls cannot be imposed unless the President himself determines that they are necessary to insure effective implementation of the allocation program.

Furthermore, State set-aside programs, in the absence of a federally implemented program, are purely in the President's discretion. The crude sharing program is also purely in the President's discretion.

Adherence to the EPAA and precedent established under that act is expressly disavowed. Moreover, the strict time limitations on the authority to implement controls under this act would preclude anything remotely resembling the extended duration of controls under the EPAA.

The worst thing that can be said about this bill is that it represents an honest disagreement as to the most prudent course to take in developing a national policy for oil emergency preparedness.

As a review of the conference agreement indicates, the agreement reflects the consensus position of the Senate, which is a balanced reasonable approach to contingency planning for oil emergencies. As a Member of Congress during the last three petroleum disruptions, I have no doubt that history may repeat itself and the Congress would be besieged with demands for assistance and special treatment if another disruption occurs.

Under such circumstances, the Congress would be virtually compelled to begin consideration of emergency legislation if none is available.

However, it is far more difficult for Congress to make sound decisions in a crisis atmosphere. A far preferable approach is congressional enactment of standby legislation now during a period of adequate supply.

Immediate enactment of S. 1503 is particularly important in light of the recent finding by the General Accounting Office that "With exception of the recent buildup of the Strategic Petroleum Reserve, the United States is no better prepared to deal with significant disruption in oil imports than it was during the 1973 oil embargo."

Moreover, the enactment of the conference agreement would signal our allies and the major oil producing countries that we are determined to reduce our vulnerability to future oil import disruptions.

For all of these reasons, Mr. President, I urge my colleagues to vote in favor of the conference report on S. 1503.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, today I hope that the Senate will have the wisdom, but I doubt that the Senate will have the wisdom, to turn down the conference report on S. 1503, the Standby Petroleum Allocation Act of 1981.

Mr. President, with the likelihood being great that both the Senate and the House of Representatives will pass the conference report today, I am urging the President to veto this bill and am very hopeful and even optimistic that he will.

Mr. President, I at this time ask unanimous consent to have printed in the RECORD a letter, dated October 29, 1981, that the President previously wrote to me stating his objection to passage of this act and also a statement by the administration which is dated March 1, 1982 of the administration's policy in regards to S. 1503, the conference bill that was reported.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
*Washington, D.C., October 29, 1981.*

Hon. DON NICKLES,
*U.S. Senate,*
*Washington, D.C.*

DEAR DON: I know that you have strongly supported elimination of unnecessary Federal regulation of energy. Now that the expiration date of the Emergency Petroleum Allocation Act has passed, I want you to know that I strongly oppose any extension of allocation and price control authority.

Experience under the existing law has taught us that rather than ensuring equity, allocation and price controls simply make a bad situation worse. Allocation and price controls have turned minor shortages into major gas lines twice in the past seven years.

My Administration is fully committed to preparing for and protecting against oil supply emergencies. The Strategic Petroleum Reserve will acquire more oil this year than in the preceding four years. The Department of Energy undertook an internal reorganization to focus responsibility in a new Assistant Secretary for Emergency Preparedness. Working with other affected agencies and taking advantage of the numerous legal authorities that remain in force, DOE is developing careful plans that will encompass a broad range of emergency response measures.

The Administration is eager to work closely with the Committee on Energy and Natural Resources to ensure that our nation is adequately protected in the event of future supply disruptions.

Sincerely,

RON.

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STATEMENT OF ADMINISTRATION POLICY,
*Washington, D.C., March 1, 1982.*

S. 1503—STANDBY PETROLEUM EMERGENCY AUTHORITY ACT

The Administration is strongly opposed to the passage of the Conference Report to accompany S. 1503, the Standby Petroleum Emergency Authority Act.

The Secretary of Energy, and the President's senior advisors, will recommend that the President veto the measure.

Mr. NICKLES. Mr. President, this statement reads:

The Administration is strongly opposed to the passage of the Conference Report to accompany S. 1503, the Standby Petroleum Emergency Authority Act.

The Secretary of Energy, and the President's senior advisors, will recommend that the President veto the measure.

I wish to join them in urging the President to veto this bill because quite frankly and very simply put, this bill would do more damage than good in the event of a petroleum shortage.

I do not intend to make a very lengthy statement today. I made a very detailed and in-depth statement on October 29, 1981 in the RECORD of my opposition to this act.

It is my opinion that passage of S. 1503 will do more damage than good. In the past, regulatory and allocation schemes that this country has seen during previous shortages, shortages in 1973 and also in 1979, have actually contributed, complicated, and aggravated the shortages that we had at those particular times.

Mr. President, I am not just speaking for Don Nickles, but also for experts in the field and I shall quote from a few of the statements made by individuals that were actually in charge of operating and administering prior allocation and price control schemes.

Bill Simon, who was former head of the Energy Office in 1973, during the 1973 crisis, stated:

As for the centralized allocation process itself, the kindest thing I can say about it is that it was a disaster. Even with a stock of sensible-sounding plans for even-handed allocation all over the country, the system kept falling apart, and chunks of the populace suddenly found themselves without gas. There was no logic to the pattern of failures.

Essentially the allocation plan had failed because there had been a ludicrous reliance on a little legion of government lawyers, who drafted their regulations in indecipherable language, and bureaucratic technocrats, who imagined that they could stimulate the complex free-market processes by pushing computer buttons. In fact, they couldn't.

Mr. President, I also quote from Mr. William Lane, who was Director of the Office of Competition in the Department of Energy from 1978 through 1980, an office which dealt with the 1979 shortage.

Mr. Lane stated:

The regulations reduced supplies below those which would have been available in a free market, prevented the reduction in demand that ordinarily would have accompanied higher world prices, and misallocated the remaining supplies among different products and different regions.

Perhaps the most important result of the regulations was that they politicized oil price and supply decisions. Firms increasingly came to realize that their competitive position, and perhaps their survival, depended less on their efficiency or business acumen than on decisions reached by Federal regulators.

He went on to say:

In summary, a conservative estimate of the total private administrative, compliance and reporting costs of the price and allocation regulations is about $2 billion per year. The direct governmental burden of administration was about $210 million in 1979.

Finally, the Department of Energy's own Office of Competition recently concluded that "the price and allocation regulations are the most anticompetitive factors operative in today's gasoline market."

I also quote from Dr. Philip Verlegerty who is an economist at Yale University's School of Organization and Management.

He says:

I have spent a lot of time looking at regulations under EPAA, and I find that that is a disastrous history.

The standard response to a disruption has been to impose price and allocation controls. No action could be more detrimental to the long run interest of consumers and consuming countries because controls delay adjustment and drive prices up even higher. Further, the provision of allocations or determination that some companies or some consumers require special treatment removes any incentive for these companies and consumers to build precautionary stocks and thus reduces the effect of any disruption.

One final quote is a highlight from the GAO report entitled "Gasoline Allocation: A Chaotic Program in Need of Overhaul."

It states:

Emergency response planning was incomplete and outdated.

Federal and State Governments were ill-prepared to deal with their supply management role.

The effectiveness of program operations was plagued by inadequate management and staffing, relentless demands for services, poor or totally lacking information systems, and unclear guidance and direction. Even under the best of conditions the workload would have been formidable; in this instance, it was overwhelming.

The study also revealed that:

Between January 12 and July 5, 1979, DOE made 27 changes to its motor gasoline and middle distillate allocation regulations.

Mr. President, I cite these quotations by distinguished individuals who either worked and actually managed the previous allocation schemes or studied them and all of them have stated allocation did not work.

I think the evidence is clear that the law of supply and demand does work and every time we have the Federal Government try to impose or superimpose their almighty wisdom on how to solve problems, they do more damage than good in the marketplace.

Specifically, let us look at S. 1503, and let me point out a few of the reasons why I urge the President to veto this legislation.

Mr. President, S. 1503 requires that a bureaucracy be maintained, an extensive bureaucracy. We are not talking about a cheap agency. We are talking about a massive bureaucracy that is going to come up and decide who is going to have what oil and gasoline, who is going to have what particular type of fuel. It requires maintenance of regulations for the crude-oil-sharing program. Mr. President, this program will certainly be a disincentive for persons or organizations or companies who accumulate and maintain their own private individual stocks. It is going to subsidize those refiners or those people that are in the energy industry that do not take care providing for adequate resources in the event of a possible shortage. They can rely on the Federal Government to come in and say, "Yes, we will come in and we will bail you out."

Mr. President, it has an exhaustive list of priorities among users. We, in the Federal Government, make and pass the laws—and the old scheme was passed in 1973. We are basically keeping the same list of priorities that were under the EPAA. I think I counted a total of about 31 different occupations and industries.

Now, if you are not on the list, you are out of luck. Consumers are not on the list, Mr. President. We have everybody else on here, everybody that has a lobby group, but the consumers are not on the list. If you did not have a lobbyist come in and get your name on the list, then you are out of luck.

So we find the consumers are really going to end up on the short end of the stick and everybody that is on the

list given a high priority. Their lobbyists get high points. We see all kinds of industries here. We have municipal groups, transportation groups, farm and ranching and dairy and fishing, petroleum industry marketing, independent refiners, distribution, agriculture, heating, national defense, safety and welfare, public health—they are all here except for the consumers. Consumers are going to end up short and because of passage of this type of legislation, if we do have another shortage, there will be long gas lines and it will be exactly the result of this type of legislation wherein the consumers are left out.

The marketplace does an outstanding job of distributing scarce resources in the most efficient and the most economic manner possible. Certainly better than a bureaucratic list that says, "yes, everybody on this list is going to get ample fuel, but if you are not on this list, you have to get whatever is left over."

Mr. President, I submit that, in the event this legislation passes and we have another shortage, this list is going to grow longer and longer and longer and the gasoline lines are going to grow longer and longer and longer.

Mr. President, we have talked about State federalism. This bill requires Federal approval of State energy plans. So all the States now are going to have to come up and submit their plans and have our DOE, or whatever remains in the DOE, to somewhat sanction their plans. It provides preemption of the State energy plans and State energy laws. It requires specific and burdensome data collection, collection that is estimated by Alice Rivlin of CBO to cost an estimated authorization level of $700,000 for 1982, and $400,000 in 1983. And estimated outlays in 1982 are $600,000 and estimated outlays in 1983 of $500,000.

Mr. President, the bill that we have before us, S. 1503, its objectives are identical to the objectives of the old EPAA. It ties us in with the previous litigation and interpretation. Some people say, "Well, it is only a temporary plan." Yet is it not scheduled to expire until December 31, 1984. And we can find that it could easily be extended, as the past EPAA was extended four times in the last 6 years.

Some people said, "Well, we need this legislation in the event of a shortage."

Mr. President, the President now has adequate authority under other statutes. We have the Defense Production Act, we have the Trade Expansion Act, we have SPR and the naval petroleum reserve, all of which can be expanded, all of which give the President ample authority.

The President is not seeking additional authority. He is not requesting the Congress to give him this type of leeway.

Mr. President, the bill that we have before us says, yes, in the event of a shortage and that shortage—and the Senator might correct me, but I do not think it is defined. The triggering mechanism is basically whenever the President says it is.

Granted, one House of Congress could override that, but it gives the President the authority to say: "I think there is a shortage out there so I am going to impose allocation controls. I am going to impose price controls," all of which would greatly hamper, I think, the efficient moving of energy throughout the marketplace and certainly, in my opinion, hamper the consumer.

Mr. President, I am going to vote against S. 1503 today. I hope my colleagues will also. I certainly hope that if it does pass—and I expect it to—that the President will veto this legislation.

The PRESIDING OFFICER (Mr. HELMS). Who yields time?

Mr. NICKLES. Mr. President, I wish to reserve the remainder of my time.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I yield myself an additional 3 minutes. Might I inquire how much of my time I have used?

The PRESIDING OFFICER. As of this moment, the Senator has 21 minutes and 7 seconds remaining.

Mr. McCLURE. I thank the Chair.

Mr. President, I appreciate the correction that the Senator from Oklahoma made. I was a little surprised when he said it was going to cost hundreds of millions of dollars. I was pleased to see that he corrected that to indicate that it was several hundred thousand dollars in 1982 and 1983.

I might just indicate what that is for. It is to develop a standby scheme that Congress can take a look at to see whether we agree with what would then be invoked at a later time in the event there was a severe supply interruption. The only expense created by the conference report would be in the development of that standby plan to be triggered in the event of a severe emergency.

I also could not help but notice that earlier the Senator from Oklahoma said that this will require a large bureaucracy. Well, no large bureaucracy will be created by this bill unless and until there would be a severe supply interruption, at which time there might or might not be a large bureaucracy, depending upon the nature of the supply interruption and the nature of the response.

So I think it is possible to say that, yes, there would be; I think it is also quite accurate to say that nobody can state that as a flat prediction.

Mr. President, I think it might be very, very helpful for us to look at the differences between this piece of legislation that is before us today and the EPAA. Many people are kind of casually referring to this legislation as though it is an extension of EPAA.

Nothing can be further from the truth than that statement. I think it ought to be kept in mind that this is not an extension of the EPAA. It is entirely different legislation, crafted in a much more constrained and much more focused way. I hope we will not be misled into believing that all of the ills of the EPAA will be revisited if this legislation is passed. That is simply not true.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I am pleased to support the conference report on S. 1503, the Standby Petroleum Allocation Act. This bill will provide the President with authority to address a major future disruption in our supply of petroleum.

First, I want to congratulate the chairman of the Committee on Energy and Natural Resources, Senator McCLURE, for his skillful steering of this bill through the committee, through the Senate with an overwhelming vote of support, and through the conference with the House. He recognized the absence of adequate emergency authority for the President and took the initiative to correct this deficiency, all the while inviting bipartisan support from his colleagues.

Second, I want to compliment Senator JOHNSTON for his invaluable contribution in insuring that the movement of this legislation would be in a spirit of bipartisan cooperation. It is in no small part due to his efforts that I can truthfully say that this is a good bill and that the Senate should adopt this conference report.

At present, OPEC's cohesiveness is in some doubt. While many find nothing but good fortune in OPEC's troubles, I am concerned that OPEC may, out of a sense of desperation, commit desperate acts to insure their viability. While some believe that the glut of oil will end our concerns over energy supply, I am still convinced that a major petroleum disruption is inevitable, given the political instabilities in the Middle East. It is just a matter of time.

What would happen if we did have a cutoff of Mideastern oil? The President would not have a comprehensive authority with which to address the crisis. The Governors would be under extraordinary pressure to react to the crisis to protect their respective citi-

zens. It is likely that in the absence of S. 1503, what we would have would not be a free market, but a host of conflicting State and local laws on petroleum pricing and allocation.

On the other hand, upon the enactment of the Standby Petroleum Allocation Act, then petroleum pricing and allocation laws would become a Federal matter. It would be up to the President to detemine the extent to which the Government would intervene in the market.

S. 1503 provides that within 180 days after enactment, the President must promulgate and transmit to the Congress a standby regulation which provides for the mandatory allocation of petroleum products. This standby allocation authority is very broad. Subsumed within it is the authority to impose price controls on petroleum products and the authority to create a crude sharing program.

I think that the Members who have worked on this bill have understood all along that you cannot have an allocation program without some form of price controls to make the allocation system work. Section 274(c)(1) provides that price controls are permitted "only if the President finds that such limitations are necessary to insure effective implementation of such regulation." Not only is the President's finding not subject to judicial review, but in addition, the statement of managers states:

> The Conferees intend that this phrase should not be read narrowly. "Effective implementation" could include achieving the purposes of the act, the purposes of the regulation itself, or the objectives of any of the provisions of this Part.

Thus, the President could not impose price controls purely for the sake of price controls, but the price control authority would be generally available to the President in conjunction with the allocation authorities of this act.

Under this act, if the President finds that a severe petroleum supply interruption exists, he may implement the standby authority only after he transmits the regulation to the Congress for one-House legislative review under section 551 of EPCA. Of particular interest is the question of whether one-House legislative review is required, if the President seeks to amend a Federal program that is already implemented.

Generally, once a Federal allocation program is implemented, then the President may amend the plan without coming back to the Congress for one-House approval of the amendment. There is one exception to this general rule. Under section 275(a)(2), one-House congressional review of an amendment is necessary if the President seeks to enlarge the basic scope of his authority under the Federal program to extend the program in one of three ways. Those three ways are: 1, to extend the regulation to include one or more additional regions or categories of petroleum products; 2, to change the authority to include a crude sharing program where no such authority existed before; or, 3, to include an end-user allocation program where no authority existed for such program.

Clearly, this section carries a message. If the President wants to avoid having to come back to the Congress to amend his Federal program after it is implemented, then he should request a broad scope of authority from the Congress in his initial transmission of the standby regulation to the Congress. The President may choose to implement only a portion of that authority available to him, but at least if circumstances require the President to alter his program, the basic scope of authority would support such a change without the necessity of further submission to Congress.

In considering section 276 on administration of regulation, it is important to note that the conferees did not accept the House version of the language which incorporated the provisions of section 4(b)(1) of the Emergency Petroleum Allocation Act, EPAA. These provisions describe what were the objectives of the allocation under EPAA. The House described these provisions as discretionary guidelines, but the conferees did not agree to this language. Under the conference agreement, the administration of any regulation promulgated under section 274 shall, to the maximum practicable, provide for these objectives.

When the conferees met on S. 1503 for their final meeting, they were aware of the decision by the U.S. Court of Appeals for the District of Columbia in Consumer Energy Council against FERC, which held the one-House legislative veto in the Natural Gas Policy Act to be unconstitutional. While I do not agree with this decision, there is the remote possibility that the Supreme Court will affirm the decision in a way that will affect the use of the one-House legislative veto in the Standby Petroleum Allocation Act. In that event, a court reviewing the Standby Allocation Act in the future may inquire as to the intent of the Congress with respect to severability of the one-House review provisions from S. 1503. The legislative history on this point should be very clear. We intend that the President will have the authority to respond to a severe petroleum supply shortage. If the one-House legislative review is struck down with respect to S. 1503, we would intend that the one-House legislative review provisons of S. 1503, section 275(a)(1)(B) and section 275(a)(2), would be severable from the rest of section 275. I certainly do not believe that the one-House legislative review provisions in S. 1503 are critical or essential to the passage of this legislation that grants the President the necessary emergency authority to address a severe petroleum supply shortage. I think that all the conferees would agree that it would be a tragedy indeed if, in the middle of a severe petroleum supply shortage, a court were to rule on the constitutionality of the one-House legislative review provisions in S. 1503 in a manner that would vitiate the authority of the President to cope with the crisis.

Mr. President, I yield the floor, and I yield control of our side to the distinguished Senator from Louisiana who has done such an able job from the very beginning on our side.

Mr. JOHNSTON. I thank my distinguished colleague.

Mr. President, I strongly favor the adoption of the conference report on the Standby Petroleum Allocation Act of 1982. This conference agreement:

Provides the necessary basic authority for the President to act to minimize the adverse impacts of a severe petroleum supply shortage on the domestic economy;

Permits the President to fashion his response to such a shortage to directly address the specific market dislocations the shortage is likely to cause;

Otherwise provides for reliance on market forces to deal with a petroleum supply interruption; and

Preserves the preeminent Federal role in establishing national policies with respect to petroleum supply and use in times of emergency and in normal times as well.

I urge the President to sign this legislation. As we debate this report today, the Federal Government is without adequate authority to manage the potentially devastating effects of a petroleum supply interruption. Let no one assume that our vulnerability to such interruptions has ended. There are dozens of plausible scenarios which could lead to a substantial reduction in U.S. petroleum supplies. Should such a reduction occur while the Federal Government is powerless to take effective action, the economic losses would be enormous. It is also not difficult to see that the political damage would be substantial to a President who had blocked enactment of the authority which might have permitted such effective action.

The authority contained in this legislation is discretionary and flexible. It does not replace any other Presidential authority, for example, that which is available in connection with the International Energy Agreement. Rather, the Standby Petroleum Allocation Act of 1982 provides the President with a complete and internally consistent but entirely optional program for managing petroleum supply

disruptions. It authorizes the President to address supply shortages in sequential fashion, relying in the main on market forces, permitting a limited crude sharing approach for mild disruptions and providing for comprehensive allocation and price control authority as a last resort in the most severe disruptions. At its outer limits, the scope of this authority is no greater than that of the authority provided by the Emergency Petroleum Allocation Act of 1973, the EPAA.

The discretionary authority of S. 1503 may be exercised nationally or in any State or region of the United States. The definition of "State" includes Puerto Rico, Guam, and the Virgin Islands.

The President's allocation authority includes the authority to control prices. In my opinion, no allocation program can function unless it specifies, in some manner at least, a limitation on the price of the petroleum being transferred under an allocation rule. The conference agreement provides that the President find that the price limitations contained in his allocation rule are necessary to insure the "effective implementation" of the rule. This finding is not reviewable by Congress or by any court and could be made at any time, for example, upon promulgation of the standby allocation regulations or during their implementation in a crisis. If the President's draftsmen are prudent they will include this finding in the standby regulation to be promulgated within 6 months of enactment so that maximum certainty will be available to the suppliers, distributors and consumers of petroleum concerning the nature of the rules to be imposed during a crisis.

There is another aspect of the President's authority which must be carefully considered by the drafters of the President's standby allocation regulation under S. 1503. This is the matter of whether and when the Congress must review, with right of either House to veto, any amendment to this regulation.

Under the conference agreement there is in general no opportunity for a congressional vote to approve or disapprove regulations under the act. There is a "layover" requirement under which the basic standby allocation regulation and any subsequent amendments of a substantive nature to this regulation are not effective until 30 calendar days after they have been transmitted to Congress. This provision is intended only to facilitate congressional oversight of the President's standby program. In the event of an imminent crisis which leads the President to declare the existence or likely existence of a "severe petroleum supply shortage," the layover requirement is waived. Congress does not intend to involve itself in the day-to-day management of such a shortage. That is the President's job. Once a severe petroleum supply shortage exists, the President should be and must be free to act without procedural interference from Congress.

Accordingly, the conference substitute provides for congressional review and a right of either House to a veto only with respect to the decision to implement the standby allocation regulation. This review would occur only after the President gives notice of his finding of the existence or likely prospect of a severe petroleum supply shortage. In essence, the Congress reviews only the President's decision that circumstances warrant the imposition of the Federal program contained in the standby regulation under S. 1503.

If this program is to be effective it must necessarily be very flexible. The industry to which it applies is extraordinarily complex, and the specific nature of the disruption with which the President must deal cannot be predicted in advance. The conferees fully intend that the President have the flexibility to respond effectively to the inherent complexity and unpredictability of the situation.

It is in this regard that it is important that the terms of the basic standby regulation the President promulgates be broad enough in scope to encompass the effects of a substantial supply interruption. The reason for this caution is the possibility that a certain provision, paragraph 275(a)(2), which was inserted in the conference report at the insistence of the managers on the part of the House, could be misinterpreted to require congressional review with a right of veto by either House with respect to actions taken by the President during a shortage to apply a necessarily general standby allocation regulation to a specific and very real shortage situation.

It is emphatically not the intent of the conferees to force the President, during the exigencies of a severe petroleum supply interruption, to subject to congressional review and possible veto the large number of clarifying amendments which the President will necessarily propose in order to render the general standby regulation effective in dealing with the specific supply interruption. Nothing could create more confusion or do more to undermine confidence in the Federal program than a requirement that the President await congressional approval of specific provisions of his allocation regulation in the midst of a crisis. For this reason the application of paragraph 275(a)(2) is strictly limited to amendments which expand the scope of the regulation being implemented in one of three specific ways:

First, by controlling one or more additional categories of products;

Second, by adding only an end-user allocation program to a crude sharing program; or

Third, by adding only a crude sharing program to an end-user allocation program.

All other amendments, including all amendments removing controls from categories of petroleum products, are exempt from the review required by paragraph 275(a)(2).

Moreover, if provisions are incorporated in the original standby regulation which set forth the general circumstances under which these specific types of changes in implementation may occur, the application of the paragraph could be avoided altogether, since then no amendment will thereafter be necessary to implement any of these three modifications in the program. I strongly recommend this course to the President so that there will be no question about the President's fundamental authority to effectively administer a flexible allocation program in a crisis.

The mechanism chosen by the conferees for congressional review and right of disapproval of the President's decision to implement his standby allocation regulation is the "one-House veto" procedure set forth in section 551 of the Energy Policy and Conservation Act. The conferees were aware of the January 29, 1982, decision of the U.S. Court of Appeals for the District of Columbia Circuit, Consumer Energy Council of America, et al versus Federal Energy Regulatory Commission in which the one-House veto was declared constitutionally deficient. It is to be hoped that this decision will be overturned, since the one-House veto has been widely and successfully used by the Executive and Congress to resolve otherwise intractable political disputes in a flexible, mutually acceptable fashion.

However, there remains the possibility, however much we abhor it, that the circuit court decision will be upheld. In that unhappy event, it would only compound our misfortunes if the basic allocation authority contained in S. 1503 were also to be lost. I believe that on reflection the conferees would agree that the overriding importance of the Standby Petroleum Allocation Act of 1982 is the authority it provides the President to protect the domestic economy in times of severe petroleum shortage. This grant of authority is clearly severable from the procedural requirement that each House of Congress independently have an opportunity to veto the implementation of that authority. If one-House veto is found constitutionally deficient, this should not affect the other provisions of the act providing, for example, for basic allocation and price control authority, a crude sharing program and Federal preemption of pric-

ing and allocation programs under State or local law.

With regard to the preemption of State or local petroleum price and allocation laws, both the Senate and House bills contained essentially the same provision. This provision results in a substantially stronger provision than the preemption provision, section 6(b), contained in the Emergency Petroleum Allocation Act of 1973. Thus, at a minimum, State activities preempted under the Emergency Petroleum Allocation Act would also be preempted under S. 1503, the Standby Petroleum Allocation Act of 1982.

The conference agreement provides that, upon enactment, any provision of any State law or regulation is superceded to the extent that such law or regulation provides for the pricing or allocation of petroleum. As stated on page 23 of the report:

> In general, it is the intent of the conferees that the decision as to when and to what extent to replace market mechanisms with (a) mandatory price and allocation program in the petroleum industry is a Federal decision, and State laws that would usurp the Federal role are hereby preempted.

Thus, if a State law or regulation "provides for the pricing or allocation of any petroleum product" it is preempted, period. The question of whether or not a law or regulation is preempted becomes a question of whether or not—or the extent to which—the law or regulation provides for pricing or allocation of petroleum.

The remedy provided by the conferees for any person who feels that an exemption is appropriate for a category of laws affected by this preemption is the remedy contained in both the Senate and House bills. Such a person would petition the President to exercise his authority under subsection 280(b) to exempt, by rule, that category of laws from the Federal preemption. Subsection 280(b) provides specific standards to guide the President's discretion in granting such an exemption.

Since the conference report on S. 1503 was filed in the Senate, the Supreme Court has ruled on February 22 on a case involving preemption, Tully versus Mobil Oil Corp., which is mentioned in the conference report on page 23. This case involved the preemption of a New York State tax on oil company revenues which prohibited passthrough of the tax to consumers and was argued under the preemption provision of the Emergency Petroleum Allocation Act of 1973.

As the Court majority noted, "the expiration date for (this) Federal statute has come and gone." Clearly, there is an arguable impact of this conference report on the kind of State law litigated in Tully versus Mobil Oil Corp. But the Federal preemption provision is an entirely different provision. For example, the "conflict" test of section 6(b) of the EPAA is not a test of preemption under the conference agreement on the Standby Petroleum Allocation Act of 1982. The issue under the conference agreement is whether or not or the extent to which a State law provides for pricing or allocation of petroleum. In the case of State laws governing the passthrough of taxes on oil companies, this matter will have to be reviewed anew, independently of the findings in Tully versus Mobil Oil Corp.

Section 277 of the conference agreement provides for a crude sharing program which combines the provisions of the House and Senate bills. The House bill set general goals for the crude sharing program. These goals are incorporated in subsection 277(b). The Senate bill directed the President to address the mechanics of the crude sharing program. The requirement that these operational questions be addressed is contained in subsection 277(c).

The point of having a crude sharing provision is to provide the President with a specific option to deal with an oil supply disruption with a minimum of regulation. Under crude sharing the Federal Government interacts only with refiners. The program attempts to reduce panic buying and smooth out the disproportionate impacts of a disruption through sales of available crude oil among refiners. It is not intended that downstream operations—jobbers and retailers and end-use consumers—be regulated. Producers would not be regulated. No "entitlements" program is required.

This approach has the potential to deal with a wide range of disruptions with minimum interference with market mechansims. The President should be encouraged to try such a program before imposing the full range of price and allocation controls—from the wellhead to the corner gas station. This program should benefit consumers and the Nation as a whole by eliminating the sort of panic which bid up prices so high during the Iranian revolution. These benefits accrue by limiting the rate of increase in crude oil prices and as a result of that limiting the rate of increase in refined product prices.

The conferees added a provision requiring the President accompany his notice of intent to implement a crude sharing program with a declaration that such program is likely to result in a significantly reduction in anticipated adverse impacts of a severe petroleum supply shortage and thereby benefit consumers as a whole. The conferees specifically rejected characterization of this declaration as "a finding" in order to avoid any suggestion that hearings or other proceedings would be required before the declaration is made. In fact, the President would transmit this declaration with his notice that the standby regulation is to be implemented under paragraph 275(a)(1) even though the actual crude sharing program might be invoked only at a later time.

The phrase "and thereby benefits consumers as a whole" was carefully chosen by the conferees to connote the idea that the crude sharing program will benefit consumers as a whole even though individual consumers or groups of consumers may not be better off as a result of the imposition of the crude sharing program. For example, the customers of refiner-sellers may not enjoy benefits as a result of the crude sharing program.

The conference agreement also includes in section 279 a section entitled "Limitations on Authority Over Certain Inventories." The purpose of this section is to provide statutory protection from regulation for certain inventories of petroleum products owned by consumers. In addition the President is afforded discretion to enlarge the types of inventories which are protected from regulation under this section.

A refiner's inventories are protected in this section only to the extent they meet the definition in section 279(b)(3) which provides statutory protection for residual fuel oil or refined petroleum products which are used by the refiner to meet fuel requirements necessary for operating refiner equipment and facilities for the duration of a severe petroleum supply shortage, including an extension of 60 days. As the duration of the severe petroleum supply shortage is limited to a maximum of 90 days under section 275(b)(1), the refiner's inventory granted protection under this amendment would be a total of 150 days supply, unless the President had specified that the severe petroleum supply shortage had a duration of less than 90 days.

Another question that may arise under this section is with regard to the treatment of petrochemical companies. The clear intention is that if a petrochemical company's final product is something other than a petroleum product within the meaning of EPCA, then that firm will be treated as a consumer, and not as a refiner, with respect to the protection of this section.

Mr. President, enactment of the Standby Petroleum Allocation Act of 1982 is very much in the President's interest. He is currently terribly exposed in terms of the energy emergency contingency options available to him. This legislation will greatly expand his ability to provide the leadership only the President can provide without in any way limiting the choices he might make. It is in his interest, our interest and the country's interest that the authority provided herein be enacted. I hope it will be.

There is no firmer or more fervent advocate of a free market in petroleum products than the junior Senator from Louisiana. I have long urged the deregulation of crude oil. Indeed, I have a bill presently pending for the deregulation of natural gas. I think anyone who has studied the whole area of regulation of petroleum products will recognize that that regulation dislocates the market, produces less supply at a higher price, and, therefore, is not in the interest of the consumer.

I would urge my colleagues who feel that way to join me in the fight right now on the question of deregulation of natural gas.

How does that comport with my strong support of this standby bill?

Well, it is entirely consistent, Mr. President, because this is a standby bill we hope we never need. We hope we will never have to invoke the provisions of this standby bill and its protections. However, if we need it, Mr. President, it will be suddenly needed. It will be caused by something like a blockade of the Straits of Hormuz—sudden, unexpected, no time to prepare.

If that happens—and it is entirely conceivable, it is entirely thinkable, it is entirely within the realm of possibility that that kind of cutoff can happen if you look back at the history of the last few years, with the Yom Kippur war, with the Iranian-Iraqi war, with the Ayatollah, with other problems, manifold problems, in the Middle East, with all of those flashpoints—it is indeed thinkable, possible, that that kind of sudden interdiction of supply can take place.

If that sudden interdiction takes place, then we must be prepared to do a number of things quickly. We must be prepared first of all on the first level of interdiction to assure an equitable supply of crude oil to our refiners.

The situation may not be serious enough to call for a complete price and allocation scheme, but in order to save the existence of the independent refining sector we may need to invoke that kind of rule.

Of course, if the cutoff is complete, as in the case of a blockade of the Straits of Hormuz, then the full powers of the President would need to be implemented, at least for an interim period of time. That is to say the President would have to allocate and put on price controls, as much as I have opposed that, as those price controls have been administered in the past.

The free market simply cannot handle a 30-percent interdiction of supplies.

Throughout my comments here, Mr. President, I have said we might have to put on those price controls or we might need allocation controls. The use of the word "we" in that context is really inadvertent because the entire power is vested with the President of the United States under this bill.

This bill expires just before the end of the present term of the President of the United States, so this is a discretionary grant of power to the President of the United States, Ronald Reagan, during his first term. It is not power that could be used by a successor to President Reagan, whether he be Democratic or Republican, because all of this power expires with President Reagan's first term.

So, Mr. President, it is inconceivable to me that the President could say, "Don't give me discretionary power to be used only in the event of an emergency."

That is inconceivable, Mr. President, because if he does not like it, if he does not want to use it, he does not have to. Indeed, there is a carefully contructed trigger which requires that he make certain findings and come to certain conclusions, such as the country being in very difficult shape because of the cutoff, before he can use the power himself. But he need not use it if he does not want to under any circumstances.

Mr. President, I have heard that the administration opposes this bill. I have also heard that they give no reason for that. I cannot imagine that the President himself would oppose the bill and I am led to only one possibility. I have been groping, honestly, as to why it is that the administration would oppose the bill. I have come to only one conclusion. That is that it will put the Department of Energy to some work, to some real work, in constructing some of these regulatory schemes that would be, in effect, put on the shelf.

For example, a standby allocation program will have to be designed, and that takes some real work—in 180 days it must be designed and put on the shelf—not to be used, but to be put on the shelf. Why go through all that work? Because you do not have the 180 days if you blockade the Straits of Hormuz. You need to bring down some regulations if this President, Ronald Reagan, says, "I need it"—you know, "Department of Energy, get me something quickly." They will be able to pull it off the shelf and have the legislative authority to enact it. It is too late if we wait for the Straits of Hormuz to be blockaded.

Why could it conceivably be opposed? As I say, the only excuse I can think of is that it will give them some work.

Mr. President, they are just as we are. They are getting paid by the Government; let them go through the exercise. It is not going to kill them to do a little extra work. Why else could anybody oppose this?

I see my friend from Oklahoma has risen. Could he give me any other conceivable reason why this could be opposed?

Mr. NICKLES. I appreciate that, Mr. President. I would like to respond to the question of why the administration has opposed it.

I do not really think it is because of the work, although I think they would like to cut out some unnecessary rules, regulations and bureaucracy, which, if we do not reenact EPAA, we will be cutting out some of the bureaucracy.

Mr. JOHNSTON. Mr. President, this is not really reenacting EPAA.

Mr. McCLURE. Mr. President, if I may make one comment to the distinguished Senator from Oklahoma. We have carefully tried to make that distinction. Apparently, the Senator was not here or has not read the legislation. This is not a reenactment of the EPAA. I think we must insist that this distinction would be carried forward.

Mr. NICKLES. Mr. President, does this have the same list of priorities that EPAA also has?

Mr. McCLURE. This has one section that is common to the EPAA with respect to priorities. How many pages are involved in the bill, how many pages are involved in the legislative history, how many differences are there, I might ask the Senator from Oklahoma.

Mr. JOHNSTON. I have checked this bill out. It is about 97.5 percent dissimilar to EPAA by my count.

Mr. NICKLES. I might say to the Senator from Louisiana, to respond to his question about why the President might be against this, I shall read to him just a small quote from a letter that he sent to me, why he is opposed to that.

> Experience under the existing law has taught us that, rather than insuring equity, allocation price controls simply make a bad situation worse. Allocation price controls have turned minor shortages into major gas lines twice in the past 7 years.

I wanted to answer why the President is against this. I do not really think the President in against this because of work.

Mr. JOHNSTON. Let me say to my friend, this is not to be invoked in any minor shortage. This is to be invoked in a major shortage. The major shortage would be there. If the President saw the major shortage and says, "We do not want to put into effect this legislative scheme," that is up to the President. That is his call to make. Nobody is going to require Ronald Reagan to take this measure off the shelf and implement it.

May I say one other thing? It is my understanding, and I have been advised by many people on this, that big oil supports this bill. I do not know whether that is an argument for it or against it, but I understand big oil supports it. I shall guarantee big oil was against Emergency Petroleum Alloca-

tion Act because of the very reasons that my distinguished friend from Oklahoma is, I guess, against it. Why is big oil for this? I think mainly because they recognize two things:

First, that you have to have something on the shelf; and second, if you do not have a national policy, you are going to have 50 separate State policies. One thing that causes real confusion is to have 50 separate State laws on the same subject. We have had a little of that in the past before we got the preemption provision. I think that is why the major oil companies support it.

The independent refiners will support it, because they recognize that if crude gets terribly short, they will be the first to go and the competitiveness of the market would be the first to go.

Again, nobody is going to make the President implement this provision. I hope the Senator will recognize that the distinguished Senator from Idaho has done a marvelous job on this bill. I want to take a moment to compliment him on his work.

It has been a very difficult bill to handle both in the committee and in the conference. He has done a masterful job of holding all the disparate elements together and getting a result which I think is clearly and demonstrably in the national interest and one to which virtually no one is opposed, except someone over in the Department of Energy—maybe the President, I do not know. Maybe he is opposed, but if he is, he does not understand it.

Mr. NICKLES. Mr. President, may I ask the Senator another question?

Mr. JOHNSTON. Yes.

Mr. NICKLES. I think I heard the comment that there was no reason why the President should be opposed to this because it expires in what, December 31, 1984?

Mr. JOHNSTON. In 1984.

Mr. NICKLES. Of course, that would be the end of his first term. Does not conventional wisdom—this thing has been reenacted and resinstated year after year. I think it has been reinstated four times, actually extended four different times during the past 7 years.

So to say, yes, this is temporary and it is going to die at the end of 3 years, to me, is very shortsighted. Congress has reenacted it and we do not know who the President will be.

Mr. JOHNSTON. If the Senator is asking a question, the answer to the question is no, this is not a reinstatement of EPAA. I said it before and perhaps the Senator did not understand: This is not EPAA. As I said rather jokingly a moment ago, it is about 97.5 percent dissimilar to EPAA, and that is the truth.

The essential difference was EPAA set price and allocation as the rule. It declared a shortage and said that from here on out, we are going to allocate and price control petroleum products—from here on out. And they did it and they did a botched-up job of it.

We take the opposite tack. We say the free market is what governs in this country, and that the President may use these limited powers, very limited powers, because you have a defined trigger which sets a narrow set of circumstances involving really what amounts to a national emergency. Second, it is very limited in time—as I recall, 90 days, with a 60-day extension that he may use the power.

That is very, very limited, and it would provide some breathing room in the event of a sudden and abrupt cutoff. There is all the difference in the world—I think the Senator will admit that—between this and EPAA. If there were not that difference, we would see the Senator from Louisiana following the Senator from Idaho in leading a filibuster against any extension of EPAA.

Mr. NICKLES. The Senator says that this legislation calls for it to expire on December 31, 1984. Does the Senator think that when we are here in 1984, we will also be trying to extend this particular piece of legislation?

Mr. JOHNSTON. I think we will take a look at it at that time. My guess is that we will look at who is the President, and we will say, "Can we trust this President to do what is right in the national interest?"

I think the committee came to the judgment that we can trust Ronald Reagan not to misuse and abuse this grant of discretionary authority. I suspect the committee will go through the same thought process at that time.

If the distinguished Senator from Idaho is the chairman of the committee at that time—I am sure he will still be in the Senate, I am sure the Senator from Oklahoma will still be here, and I am making plans to be here at that time—the three of us will put our heads together and we will say, "Well, who is the President?" Maybe it will be JIM MCCLURE, in which event we will say we can trust him.

Mr. MCCLURE. That would really scare you.

Mr. JOHNSTON. So really we limited this. The thing that is incredible is that we purposely limited this to Ronald Reagan's term so as to expunge any possible argument against the bill. And then who opposes it? Does Ronald Reagan oppose it? Not really. Somebody wrote that statement for him. I do not believe he wrote that statement.

Mr. President, I should like to read section 282 of the bill:

Nothing in this part shall be construed to require that any action taken under the authority of this part, including allocation of, or the imposition of, price controls on petroleum products, be taken in a manner which would have been required under the Emergency Petroleum Allocation Act of 1973 had that Act not expired.

What that means is that this act is 97.5 percent different from the EPAA, and I hope that satisfies the distinguished Senator from Oklahoma.

Just remember this: If you have forgotten everything else I have said, you can trust Ronald Reagan not to misuse and abuse this authority.

Mr. President, I reserve the remainder of my time.

Mr. MCCLURE. Mr. President, I yield such time as he may consume to the distinguished Senator from California (Mr. HAYAKAWA).

The PRESIDING OFFICER (Mr. EAST). The Senator from California.

Mr. HAYAKAWA. Mr. President, the Senate Energy and Natural Resources Committee recently submitted its conference report on S. 1503, the Standby Petroleum Allocation Act. I urge my colleagues to support this act which grants the President limited and temporary authority to allocate petroleum products during a severe petroleum supply shortage.

S. 1503 asks the President to take a light step forward only when the marketplace fails to meet our needs. While I traditionally advise the Federal Government not to regulate the petroleum market, I am concerned that it may not be able to adjust itself during a severe supply disruption. Not only would S. 1503 provide for the public's health and safety, but the Standby Petroleum Allocation Act also would allow agricultural operations to continue and would maintain an economically sound and competitive petroleum industry.

While I do not look forward to the day when S. 1503 is implemented, I believe it is a necessary emergency measure. I ask my colleagues to join me in supporting this measure.

Mr. MCCLURE. Mr. President, I yield myself such additional time as I may consume.

The Senator from New Jersey has been given 1 hour under the unanimous consent agreement, and it is my understanding that he was to be here at 5 o'clock to make his presentation. Pending his arrival, I will take just a very few minutes to add to the RECORD what has already been stated with respect to the other authority which the President may or may not have under other statutes.

That argument has been used repeatedly, and it is a matter that the Energy Committee looked into with a great deal of care when we had our hearings. The conclusion of the Energy Committee was stated in my remarks on the floor during the consideration of S. 1503. I will simply repeat, by inserting in the RECORD at this point, certain remarks that I

made at that time with respect to the other authority of the President.

I ask unanimous consent to have those remarks printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS

With the expiration of the Emergency Petroleum Allocation Act (EPAA) on September 30, 1981, the Federal government no longer has basic authority to deal with severe domestic shortages of crude oil, residual fuel oil, and refined petroleum products. Furthermore, the adequacy of the President's authority to implement a standby emergency petroleum allocation and pricing progam in the event of a severe petroleum supply shortage has been called into question.

In my judgment, that remaining authority is inadequate to the task. My conclusion is consistent with the results of several legal analyses that were submitted to the Committee on Energy and Natural Resources during its consideration of S. 1503. Those analyses included reviews of the relevant provisions in the various Federal laws, other than the EPAA, that grant to the President limited authority to allocate petroleum supplies under certain defined circumstances.

Among the statutes reviewed were the Energy Policy and Conservation Act of 1975 (EPCA), the Defense Production Act (DPA), the International Emergency Economic Powers Act (IEEPA), the Emergency Energy Conservation Act of 1979 (EECA), the National Emergencies Act, and the Trade Expansion Act of 1962, as amended (TEA). None of these Federal statutes provides the President with sufficiently broad authority to implement an oil allocation program on a national or regional basis after the EPAA expires.

A legal memorandum by the Department of Energy and review by the Department of Justice (which appears in the Committee's report on S. 1503) concludes that section 251 of the Energy Policy and Conservation Act (EPCA) authorizes the President to allocate crude oil among domestic oil companies if he deems such action necessary to enable the United States to meet its international allocation obligations under the Agreement on an International Energy Program (IEP). However, the Department of Energy found that such authority does not encompass comprehensive petroleum price and allocation controls of the type initiated under the Emergency Petroleum Allocation Act (EPAA).

In July of this year, when W. Kenneth Davis, Deputy Secretary of the Department of Energy, testified before the Committee on Energy and Natural Resources on behalf of the Administration, he stated that the Administration opposes enactment of new emergency petroleum allocation legislation. Nevertheless, he also acknowledged that after the EPAA expired, the President would not have any comprehensive petroleum price and allocation authority similar to that provided by S. 1503.

Mr. President, the President's ability to act under existing law is sufficiently ambiguous to constrain his possible actions and render them inadequate to the task. The choice is between the current situation which consists of ambiguous and possibly inadequate existing authorities, and the clear definitive Congressional delegation of authority provided by S. 1503, which consists of specific standby authority to deal with petroleum supply interruptions.

Mr. MCCLURE. Mr. President, I think it is also interesting to note that, in spite of what has been said here about the opposition to this legislation, it has broad support.

I should like to insert in the RECORD at this point a letter which is cosigned by me and the distinguished Senator from Washington (Mr. JACKSON). It has appended to it a summary of the provisions of the bill.

I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 23, 1982.

Re S. 1503 conference report.

DEAR COLLEAGUE: Within the next few days, the Senate will consider the conference report on S. 1503, the Standby Petroleum Allocation Act of 1982. S. 1503 passed the Senate by a vote of 85 ayes to 7 nays on October 29, 1981. The conference agreement incorporates in large part the Senate bill as passed, and it was unanimously approved by the Senate conferees.

We urge you to vote in favor of the conference agreement. We are convinced that, in the absence of this legislation, our country would not have the ability to deal effectively with a severe petroleum supply shortage.

The conference agreement would grant the President limited and temporary authority to allocate crude oil and petroleum products, in his discretion, in the event of a "severe petroleum supply shortage" in order to minimize the adverse impacts of such a shortage on the American people and the domestic economy. Attached is a brief summary of the legislation together with an outline of the major provisions of the conference agreement.

There are several important features of the conference agreement. First, the measure would establish a standby Federal program to be activated only as necessary to respond effectively to another serious oil supply disruption. We are convinced that the President does not now have sufficient authority for such a response.

Second, the conference agreement places primary reliance on market mechanisms for the allocation of petroleum supplies. Our past experience demonstrates that the marketplace is the most efficient and equitable allocation mechanism in most circumstances. However, in the event of a severe petroleum disruption, the marketplace may not be capable of responding quickly enough to maintain adequate supplies for certain critical needs. Under such circumstances, the President must have adequate authority to implement an allocation program on a statewide, regional, or national basis, depending on the nature of the particular shortage. Such a program could include price controls only if necessary to ensure effective implementation of the allocation program. The conference agreement stresses broad Presidential discretion so that he can tailor his response to particular circumstances with minimum government involvement in the marketplace.

Third, a major petroleum supply disruption is a national problem that demands a coordinated national response. Unless S. 1503 is enacted, our country will be faced with a multiplicity of conflicting State and local laws which could disrupt commerce and exacerbate the adverse effects of any shortage on the nation as a whole.

Finally, even with the recent buildup of the Strategic Petroleum Reserve, the United States is still not prepared to deal with significant disruptions in oil imports such as the 1973 oil embargo. Should a severe petroleum supply disruption occur, it is a virtual certainty that the Congress and the Executive Branch would be besieged with demands for relief by all sectors of our economy. In the midst of such a crisis atmosphere it would be extremely difficult for the Congress to act dispassionately. Consequently, we should legislate now.

Enactment of the conference agreement would signal our allies and the major oil producing countries that we are determined to reduce our vulnerability to future oil import disruptions.

Sincerely,

JAMES A. MCCLURE.
HENRY M. JACKSON.

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STANDBY PETROLEUM ALLOCATION ACT OF 1982

SUMMARY

The purpose of the legislation is to grant to the President limited and temporary authority to allocate supplies of crude oil and petroleum products in the event of a severe petroleum supply shortage. The authority would be exercised for the purpose of minimizing the adverse impacts of such a shortage on the American people and the domestic economy.

The Act contains the following major provisions:

(1) Within 180 days of enactment, the President is required to promulgate and transmit to the Congress a standby regulation providing for the mandatory allocation of crude oil and petroleum products. After transmittal, the regulation would be subject to a layover before the Congress of 30 calendar days.

(2) The standby regulation may include limitations on the price of crude oil and petroleum products only to the extent necessary to ensure effective implementation of the regulation. The limitations may include restrictions on discriminatory pricing. The standby regulation must include an optional standby program for the sharing of crude oil among domestic refiners. If the President chooses to implement such a program, it must comply with the requirements specified in the Act.

(3) The President may implement the standby regulation only if (a) he finds that a severe petroleum supply shortage exists, and (b) neither House of Congress disapproves (or both Houses approve) implementation of the regulation within 15 calendar days of continuous session. A "severe petroleum supply shortage" is defined as a national or regional shortage of significant scope and duration that may cause a major adverse impact on the national security or on the economy of the nation or any region, may threaten the public health, safety and welfare, and may not be reasonably manageable under other authorities available to the President or by reliance on free market pricing and allocation. Once implemented, the regulation may remain in effect for a period of 90 days. The President is authorized to extend implementation for up to 60 additional days without Congressional approval.

(4) In implementing the standby regulation, the President would have broad discretion (within statutory limits) to take those actions necessary to deal with the specific circumstances of the shortage. He could choose to implement only certain provisions

of the standby regulation, or the entire regulation, and he could promulgate amendments necessary to meet the immediate emergency. Administration of the regulation must, to the maximum extent practicable, provide for the objectives contained in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973; however, such administration need not be conducted in a manner that would have been required under that Act. If the Federal allocation program is implemented in any State, the program must provide for a State set-aside of the allocated products in that State. Moreover, the President may delegate to any State his authority to administer the Federal allocation program. The Act does not grant the President authority to impose any tax, tariff or user fee, to prescribe minimum prices for petroleum products, to establish a gasoline rationing program, or to allocate petroleum inventories held by consumers for end-use consumption.

(5) State laws providing for the pricing and allocation of petroleum products are preempted. However, certain categories of such laws may be exempted from preemption by rulemaking, if they meet the criteria specified in the Act. Any State set-aside program (authorized under State law) also may be exempted from preemption if (a) it complies with the requirements in the Act, (b) it is approved by the President within 10 days after receipt of the Governor's notice of intent to activate the program, and (c) the Federal allocation program has not been implemented in the State.

(6) The Act will expire on December 31, 1984.

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OUTLINE OF THE CONFERENCE REPORT ON S. 1503—THE STANDBY PETROLEUM ALLOCATION ACT OF 1982 (SENATE REPORT NO. 97-313)

The conference agreement amends the Energy Policy and Conservation Act by including provisions related to standby petroleum allocation in the event of a severe petroleum supply shortage (Section 2). The conference agreement in large measure merges the Senate and House bills on individual provisions, with a few exceptions where either House receded. The major provisions are described in the following paragraphs.

*Statement of Findings.* The Senate provision, with technical changes to reflect other provisions, is included.

*Purpose.* The Senate provision, with a technical change to remove any linkage to section 251 of EPCA, is included.

*Definitions.* The Senate and House definitions for a "severe petroleum supply shortage," the so-called "trigger" under the bill, were merged, while retaining the concept of state, regional or national impacts.

*Presidential Authority.* The procedure for the President's formulation of the standby allocation regulation would include (1) regional hearings, (2) opportunity for participation in the rulemaking proceeding (including the hearings) by Executive Departments with specific expertise, such as the Departments of Agriculture, Defense, Energy and Transportation, and, (3) a bimonthly status report on the progress in formulating the regulation.

The conference agreement adopted the Senate provision granting the President discretionary authority, subject to Congressional review under section 551 of EPCA, to provide for mandatory allocation of crude oil, residual fuel oil, and refined petroleum products, if the President finds that a severe shortage exists or is imminent. Limitations on price are only authorized where necessary to ensure the effective implementation of the allocation regulation. Such limitations may restrict discriminatory pricing.

Senate and House provisions are merged so that the regulation applies to allocations throughout the United States (or in any affected State or region of the United States) of crude oil, residual fuel oil, and refined petroleum products produced in, or imported into, the United States.

Senate and House provisions on the procedure for the promulgation of the standby regulation are merged to provide as follows: (a) that the President is required to promulgate regulations on a standby basis within 180 days of enactment, subject to a layover before the House and Senate of 30 calendar days; and (b) the regulation is subject to Congressional review prior to implementation as provided in Sec. 551 of EPCA. The promulgated standby regulation could be amended in whole or in part by the President when he submits notification to the Congress for implementation in a crisis. In that event, such an amendment would not then undergo a separate 30-day layover process.

The Senate and House provisions on duration of the implemented program are merged to permit the program to remain in effect for no more than 90 days, with a potential 60-day extension. The conference agreement (as did the House bill) does not provide a mandatory linkage between this Presidential authority and the President's authority under section 251 of EPCA relating to obligations under the international energy program.

The Senate and House provisions regarding limitations on the President's authority are merged to include (a) the Senate formulation regarding gasoline rationing, taxes, tariffs, and user fees, and (b) House prohibitions on minimum price controls.

The Senate provisions regarding Presidential delegation of authority is retained. Subject to certain limitations, the President may delegate his authority to any State and ot the Department of Energy.

*Objectives.* The Senate formulation of objectives for administration of the allocation program, including section 14 clarifying Congressional intent, is included.

*Administration and Enforcement.* Senate and House provisions pertaining to administrative procedures, enforcement, and damages or other relief are merged. The petroleum allocation provisions are included as an amendment to Title II of EPCA. The provision on Enforcement and Administration (Sec. 7) is retained, but the incorporation by reference of section 207 of the Economic Stabilization Act of 1970 (administrative procedures) is deleted. The legislation includes the House provision on applicable administrative procedures (Sec. 523 of EPCA), but deletes subparagraph B of paragraph (a)(2) of that provision (public notice requirements imposed on States), and also includes House provisions prohibiting certain actions (Sections 521 and 524 of EPCA). With the exception of section 551 (congressional review) and the other sections cited above, no other provisions of Title V of EPCA would apply to the legislation. The Administrative Procedure Act would be applicable. Through the incorporation of section 523 of EPCA, the legislation provides for judicial review in accordance with section 211 of the Economic Stabilization Act of 1970.

*Preemption.* The House provision regarding preemption of State price and allocation laws as of the date of enactment is included. The Statement of Managers clarifies the intent of the conferees on the preemption provision. The clarification consists of the following: (a) a listing of the general criteria for preemption; (b) a description of the categories of State laws not intended to be preempted; (c) a statement that, in general, Congress intends to preempt those State laws whose price and allocation effects are similar to those under EPAA; and (d) a statement making clear that if a state law is not initially preempted, but is later found to be in conflict with the Federal implemented program, it will be preempted at that time.

*Crude-sharing.* The Senate and House provisions are merged to include generally the House objectives and the Senate mechanisms to establish a requirement for an optional crude-sharing program (as part of the standby regulation) to govern any Federally mandated crude-sharing among refiners.

*Protection of Inventories.* The House provision is included with a clarifying amendment providing that protected inventories are limited to those held by and in the custody of a consumer for his own end-use consumption, with Presidential discretion to designate qualifying categories of inventories owned by a consumer (in addition to inventory in the direct possession of the consumer) on specified dates and subject to specified limitations.

*State set-aside.* The Senate and House provisions are merged. The legislation retains the Senate provision providing a State set-aside in the event the Federal standby regulation is implemented. State set-aside programs established by State law are preempted as of the date of enactment, however, in the absence of a Federally implemented program, the President may in his discretion and upon petition of a State's Governor, affirmatively exempt that State's set-aside program from preemption for purposes of implementation in a specific State emergency. The legislation also includes certain criteria which would apply to any State set-aside program as conditions for approval.

*Strategic Petroleum Reserve.* The House receded to the Senate on this issue, and, accordingly, the legislation contains no provision on the SPR.

*Information Collection.* The bill includes the House information provision clarified to require the President to collect such information pursuant to existing statutory authority.

*Effect on Other Federal Laws.* the legislation includes the Senate provision regarding the effect on other federal laws.

*Expiration date.* The bill includes the House expiration date of December 31, 1984.

*Sections 3-5.* The Senate and House provisions requiring studies and reports are merged and retained.

*Section 6.* This section extends the existing limited antitrust exemption of section 252 of EPCA for IEA activities from April 1, 1982, to July 1, 1983.

Mr. McCLURE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter signed by the distinguished Senator from Minnesota (Mr. DURENBERGER) and the distinguished Senator from North Dakota (Mr. ANDREWS) in support of the legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *February 23, 1982.*

DEAR COLLEAGUE: Later this week the Senate will take up the conference report on S. 1503, the Standby Petroleum Allocation Act. We believe this legislation is an important step toward national preparedness for future petroleum supply disruptions. We urge your support for the conference report on S. 1503.

In the First Session of the 97th Congress we joined with fourteen cosponsors to introduce S. 1476, the Petroleum Disruption Management Act, which had purposes similar to those addressed by S. 1503. We believe that a national policy for petroleum emergencies is necessary. We believe that such a policy should be designed by the Congress in partnership with the Executive Branch before the onset of an emergency. We believe that such a policy can be designed to encourage preparedness in the private sector while at the same time relying on the marketplace as the first principle of energy policy. Each of these beliefs is affirmed in the provisions of S. 1503 as reported by the conference committee.

S. 1503 is intended to replace the Emergency Petroleum Allocation Act which expired in September of 1981. There are important differences between EPAA and S. 1503. EPAA mandated implementation of several regulatory schemes without regard to the condition of the crude oil marketplace. It mandated confusion even in periods when crude oil supplies were adequate and stable. S. 1503 avoids this result by providing for a variety of disruption policies to be implemented only as necessary and according to the characteristics of any particular shortfall. S. 1503 includes an effective sunset provision that terminates government intervention as the marketplace recovers from disruption.

We believe that S. 1503 avoids the pitfalls of EPAA while at the same time assuring that our nation will be prepared for the next petroleum emergency. We urge you to support the conference report when it comes before the Senate.

Sincerely,

DAVE DURENBERGER,
*U.S. Senator.*

MARK ANDREWS,
*U.S. Senator.*

Mr. McCLURE. I take particular note of the support of Senator DURENBERGER because he was the leader in proposing other legislation designed to protect the rights of the independent refiners and the agricultural cooperatives that are involved in that particular area of the petroleum industry. I would also add my commendation to him for his leadership and thanks for his support of the provisions that are merged into this bill from provisions of his legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD at this time a letter signed by all, except one, of the members of the Agriculture Committee on a bipartisan basis in support of this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *February 24, 1982.*

Hon. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: We understand that the Senate will shortly consider the conference report on S. 1503, the Standby Petroleum Allocation Act.

As members of the Committee on Agriculture, Nutrition, and Forestry, we wish to offer you our support in achieving the prompt enactment of this important legislation.

As you have noted, agriculture can suffer severe economic damage if the necessary fuels are not readily available. Once farmers have planted their crops, it is impossible to defer their use of petroleum resources without jeopardizing the Nation's food supply.

We believe that S. 1503 will meet the needs of agriculture and provide the President with sufficient flexibility to cope with fuel demands in the event of a petroleum shortage.

Sincerely,

Walter D. Huddleston, Jesse Helms, Edward Zorinsky, Mark Andrews, David L. Boren, Dick Lugar, Patrick Leahy, Paula Hawkins, Rudy Boschwitz, Sam Hayakawa, David Pryor, Roger W. Jepsen, Howell Heflin, Alan J. Dixon, Bob Dole, Thad Cochran.

Mr. McCLURE. Mr. President, I think that one of the tests of the merit of a piece of legislation is the breadth of support or opposition to that legislation. It was true last fall, and is true now, that the following organizations have supported and continue to support this legislation:

AGRICULTURE AND FOOD

American Bakers Association.
American Feed Manufacturers Association, Inc.
American Frozen Food, Institute.
American Meat Institute.
American Soybean Association.
Chocolate Manufacturers Assn.
Corn Refiners Association.
Food Marketing Institute.
Grain Terminal Association.
International Apple Institute.
International Association of Ice Cream Manufactures.
Milk Industry Foundation.
National Association of State Departments of Agriculture.
National Association of Wheat Growers.
National Cattlemen's Association.
National Cotton Council.
National Council of Farmer Cooperatives.
National Farmers Organization.
National Farmers Union.
National Food Brokers Association.
National Food Processors Association.
National Frozen Food Association.
National Grange.
National Milk Producers Federation.
The Fertilizer Institute.
United Fresh Fruit and Vegetable Association.
U.S. Cane Sugar Refiners Association.

INDEPENDENT REFINERS

American Petroleum Refiners Association.
Committee for Equitable Access to Crude Oil.
Independent Refiners Assoc. of America.

OIL MARKETERS AND DISTRIBUTORS

Empire State Petroleum Association, Inc.
Independent Fuel Terminal Operators Association.
Independent Gasoline Marketers Council.
National Oil Jobbers Council.
New England Fuel Institute.
Society of Independent Gasoline Marketers of America.

It has been made a matter of record. It has remained a matter of record during that whole period of time. I think it is significant to note that those organizations have continued their support and others have expressed their support for the proposed legislation. I think this breadth of support will indicate something concerning this legislation.

Every one of these organizations, incidentally, had an opportunity to see what happened under the EPAA. They said, "We don't want the EPAA." We did not continue the EPAA. We have instead devised a new piece of legislation built upon our experience and the judgments that can be applied from our experience under the EPAA.

I agree with the Senator from Oklahoma and others about the problems we did have under the EPAA. We have carefully avoided those in this piece of legislation.

I can guarantee that, if these organizations thought this act were the EPAA, we would not have their support. But we do have their support for this. I hope my colleagues will support it in full.

Mr. DOLE. Will the Senator yield?

Mr. McCLURE. Yes.

Mr. DOLE. During the Senate's initial consideration of this bill, you clarified for me the meaning of the language maintenace of agricultural operations. Does your previous explanation of maintenance of agricultural operations apply as well to the conference report before us today?

Mr. McCLURE. Yes. My earlier statement indicating that the maintenance of agricultural operations objective includes agricultural production; planting and harvesting crops; processing of agricultural products; and distribution of food and farm inputs still applies to the final bill.

Mr. President, it has been suggested by some that the enactment of the conference report would require the President, as a matter of law, to adopt the precedent that had been established under section 4(b)(1) of the EPAA.

Mr. President, this allegation is unfounded. In fact, section 282 of the conference report was adopted to insure that such a legal argument would not be sustained, section 282 specifically states:

Nothing in this part shall be construed to require that any action taken under the authority of this part, including allocation of, or the imposition of price controls on, petroleum products, be taken in a manner which would have been required under the Emergency Petroleum Allocation Act of 1973 had that Act not expired.

The plain meaning of this provision is clear. The inclusion of section 4(b)(1) of the EPAA in this bill would not, as a matter of law, carry with it all of the precedent established under the EPAA. To the contrary, as I stated in my general remarks:

The conference agreement stressed the breadth of discretion and range of options available to the President in allocating petroleum. In this regard, the statement of managers stated:

The authority delegated to the President under this Act is intended to provide the President with maximum flexibility to implement an allocation program which is consistent with the provisions of this Act and, in his judgment, is best suited to the particular shortage at hand. Thus, subject to the provisions of this Act, the President, in his discretion, may, for example, choose to limit allocations to a single category of petroleum product, to certain classes of end-users, or to allocations of crude oil among refiners, and may choose to implement the program throughout the United States or in any region of the United States.

It has also been alleged that the conference report requires a specific and burdensome new data collection program which would provide little or no benefit to our Nation's energy programs.

Mr. President, this allegation is equally unfounded. The conference report does require that the President collect information on the pricing, supply, and distribution of petroleum products at the wholesale and retail levels on a State-by-State basis. However, this information is to be collected under other authorities available to the President; the conference report does not provide new authority for information collection.

The fundamental fallacy, however, is the suggestion that the collection of such information is without value to the development of energy policy. On the contrary, Mr. President, this basic information is essential in order for the Federal Government and State governments to evaluate the breadth and depth of a petroleum supply shortage. If government does not have such elementary information about petroleum supply and distribution, the vital decision on whether or not to exercise the authority in S. 1503 would be based on guesswork instead of facts. Mr. President, such a result is totally unacceptable as a matter of public policy.

It has also been suggested that the enactment of S. 1503 would provide the private sector with a powerful disincentive to prepare adequately for a possible energy shortage. It has been argued, for example, that an independent refiner, faced with the choice of negotiating an expensive long-term contract for crude oil or relying on spot market purchases and counting on a Federal Government bailout, will be encouraged by this bill to take a chance on future Government regulation. It has also been argued that an industrial plant engineer, wanting to install alternate fuel facilities or energy conservation equipment or additional storage facilities, will find that his chances for getting scarce investment dollars from his management will be seriously harmed by the enactment of S. 1503.

Mr. President, there is no basis whatsoever for such allegations. Moreover, the conference report contains specific incentives for the building of private inventories. If a crude oil sharing program is activated, the President is required to encourage refiners to build and maintain inventories and to acquire secure supplies of crude oil. In addition, consumers are provided with statutory protection of their inventories, as I earlier indicated. Furthermore, the allocation authorities granted to the President under S. 1503 are purely discretionary and are intended to be used only as a last resort measure. I doubt that many businessmen would be lulled into a false sense of security by a Federal allocation program that will not be activated unless all other Federal authority has been exercised and has proved to be inadequate.

For these reasons, Mr. President, I reject the suggestion that the enactment of S. 1503 would serve as a disincentive to the private sector in preparing to respond to future energy emergencies.

Mr. President, I ask unanimous consent that a quorum call now be in order and that the time be charged to the Senator from New Jersey on the time reserved to him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, today we face the possibilities of severe emergencies coming at us from several quarters—not only in energy but also in domestic and international financial markets.

I am very concerned that the U.S. Government is unprepared for such emergencies and, worse, shows no signs of action to get prepared. This inaction in the face of energy emergencies has prompted both the House and the Senate to pass this renewal of the only remedy to energy problems we have we have tried in the past: price controls and allocations. Mr. President, I strongly disagree with this approach, since it has only made things worse during relatively small disruptions. However, the very fact that the administration was taking no action left the Congress with no alternative but to act on its own. I cannot accept the solution that Congress has come up with, but I share the widespread concern that we are not now prepared.

Today we are talking about oil supply disruptions. Last fall, when the Energy Committee and then the full Senate debated this issue, I proposed an alternative emergency plan to deal with oil supply disruptions. My plan used market forces to achieve efficiency in recycling of the new revenues from the existing windfall profits, tax to achieve equity. That plan was defeated last fall, but I intend to reintroduce it soon, together with other contingency planning steps I believe necessary to prepare for disruptions in domestic and international financial markets.

An emergency preparedness policy for financial markets and for oil supply disruptions does not now exist in this Government

Mr. President, when preparing contingency plans for oil, I believe we should adhere to the following principles:

First, the plans must call for an efficient use of resources. This means that the most important demands on scarce resources must be met first.

Next, the plans must be fair. Parts of our society cannot buy the essentials of life even during periods of calm. During periods of stress and rising prices, contingency plans certainly must address these needs.

Third, the plans must be practical. What good is a plan if it requires an enormous bureaucracy that must be hired in the first days of a crisis?

Finally, and perhaps most important, the plan must provide people in business with the right incentives to prepare for the emergencies before they arrive. Any incentives for advanced preparation are destroyed if the Federal Government promises to take care of those who do not prepare.

How does the current bill, S. 1503, stack up against these principles? Mr. President, the answer is very poorly.

The conference bill falls back on the failed policies of the past. We know that price controls and allocations are inefficient. We know that when the Government tries to direct supplies of oil, the allocations reflect politicians' preferences rather than market efficiency. We know that bureaucrats, however well-meaning, cannot write rules and rule changes fast enough to keep up with changing patterns of demand and supply. We know that gasoline lines and shortages are the result of allocations and price controls. Why in the world would we want to reimpose price controls without examining the alternatives?

The sponsors of this bill tried to think of an answer to this question. Again, the question: Why do we want to reimpose price controls without examining the alternatives?

The sponsors of this bill came up with the following answer:

In the event of a severe petroleum disruption, the marketplace may not be capable of responding quickly enough * * *.

That is it. That is the answer. So they must think that DOE will be able to rehire and retrain enough regulators in less time than it would take for an oil jobber to redirect a truck in response to higher prices. Incredible.

Hence, not only are price controls inefficient, they are impractical. Keep in mind that the price controls were already in place at the outset of the 1973 embargo and the Iranian revolution. The regulators were already working then; they will not be tomorrow. This bill is a prescription for chaos.

Some might think that since the price control strategy is impractical and inefficient, surely it must be more equitable. Why else would anyone espouse such a strategy? But S. 1503 does not address the problems faced by low-income people. It does not address the problems of low-income people at all. S. 1503 looks out for small refiners, by no means poor, low-income people. It looks out for farming and ranching interests, by no means poor, low-income people. Granted that some farmers may need assistance during supply disruptions. My proposal would have enabled their Governors to provide loans and grants to them in moments of crisis, targeted specificially to those farmers in need.

Why, Mr. President, in a national piece of legislation, should one group in the economy be assured low cost supplies while others suffer? Is this equitable? Is this fair? The answer clearly, in my view, is no.

Finally, Mr. President, S. 1503 does not provide incentives to prepare for supply disruptions. S. 1503 gives the President the authority to take crude oil from some refiners who have prepared for disruptions by securing their supplies, and to give it, probably at below market prices, to other refiners who have not secured their supplies. What kinds of incentives does that provide?

So, Mr. President, this bill is inefficient, inequitable, impractical, and provides disincentives for preparation against the increased probability of a major oil supply disruption in the next several years. The logical question is then asked: Why, if it is inefficient, inequitable, impractical, and providing disincentives to prepare for oil supply disruptions, why then has it gotten this far? Mr. President, I am afraid to say that the answer is because the administration itself has failed to make credible plans.

We need a credible plan, one that provides incentives to secure supplies, one that distributes oil supplies efficiently, one that is fair and assists those who are unable to adjust quickly to higher prices, and one that will work quickly with a minimum of Government involvement in oil markets.

I might also add that we need a bill that will delineate the Federal and State responsibilities and that will extend the expiring antitrust immunities for oil company participation in the International Energy Agency. We need a plan that the President will sign.

I have proposed such a plan. It relies on emergency block grants to State Governors to address the problem of low-income people, farmers, and other people with special State needs. We know how to send block grants to Governors. We do not know how to allocate oil from a bureaucracy in Washington that is being disbanded in the days after an oil supply disruption.

The plan that I proposd provides emergency tax cuts to recycle additional windfall profits tax revenues back to the economy. We know, some would say, too well how to cut taxes. We know.

We do not know how to allocate oil from a bureaucracy in Washington that is being disbanded in the event of an oil supply disruption.

The plan that I proposed relies on existing income maintenance programs such as social security and AFDC to help those in need to cope with higher prices. We know, again some would say too well, how to fund income maintenance programs.

The plan I have proposed relies on competitive forces, unfettered by price controls and allocations, to distribute efficiently the available oil supplies. We know that competitive forces can hold down oil prices. Even today we see competition forcing down gasoline prices.

Finally, Mr. President, the plan I proposed relies on an auction of a portion of the strategic petroleum reserve to insure that no refiner is entirely without access to crude oil at the outset of a supply disruption.

So, Mr. President, the bill I have proposed relies on emergency block grants for Governors, it provides for an emergency tax cut for individuals, it provides for increased social security and AFDC payments to protect the poor, it relies on competitive forces unfettered by price controls to distribute oil efficiency, and, finally, it relies on an auction of a portion of the SPR so that no refiner would be without oil.

Mr. President, S. 1503 is a bad bill. The conference report, unfortunately, is not better. There are better alternatives.

Mr. President, I urge my colleagues to break the veiled price control strategies of the past and vote against this bill.

Mr. President, for the information of my colleagues, it is a possibility that the Congress will again be considering this issue sooner than was expected. The President, in order to sign this piece of legislation, would have to violate most everything he said about energy policy. It is unlikely, in my view, that the President will be able to swallow this piece of legislation because it has been my assessment that he sticks to his principles. Sometimes I agree with that, as in this case; other times I might reserve judgment. But the fact of the matter is that for the President to sign this would be contrary to most everything he has said about energy.

For the information of my colleagues, I would like to read from the recommendation of the Department of Energy to the President. The Department of Energy recommends to the President that he veto this Allocation Act. I will read from the memorandum.

The purpose of this memorandum is to recommend that you urge the President to veto S. 1503 when it reaches his desk. As is more fully discussed below, this bill is bad for America, bad for energy policy, and bad for this administration.

That is the rather cautious opening of this memorandum.

I would like to read another section of the memorandum. The heading is "Enactment of this legislation would undermine the credibility of the administration's energy policy."

DOE says, in recommending to the President that he veto:

The President should veto S. 1503 to avoid undermining the credibility of the Administration's policy of relying, to the maximum extent possible, on market forces to respond to energy shortage situations. The President should veto S. 1503 to maintain consistency with his previously well-established positions on energy policy and government regulation.

The argument has been made that, since the bill only requires "standby" regulations, the President, by signing S. 1503 would not compromise his free-market position. That agrument is flatly incorrect. First, articles have already begun to appear questioning the Administration's energy policy, and the apparent—and puzzling—lack of Administration opposition to S. 1503. (See The Wall Street Journal, February 9, 1982, p. 30.) Already the question is being asked in the energy and industrial communities, "If the Administration opposes allocation and price controls, why didn't it oppose this legislation?"

Second, if the President signs the bill, the normal assumption will be that he is doing so because he can foresee some circumstance when he would envision using the authorities in the bill. Obviously, if the President never expected to need the bill's authorities, he would have vetoed it. Thus, if the President signs the bill, the focus of debate will be shifted to never-ending speculation on precisely when, and under what circumstances, the President will impose

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price and allocation controls on petroleum. The issue of reliance on the free market will be assumed away, given the fact of the availability of S. 1503's provisions.

Third, and most damaging, the enactment of S. 1503 will serve as a powerful disincentive to members of the private sector to prepare on their own to prevent and/or respond to possible future energy emergency situations. An independent refiner, faced with the choice of negotiating an expensive long-term contract for crude oil now, or relying on spot market purchases and counting on a Federal government bail-out, will be encouraged by this bill to take a chance on government regulation in the future. And an industrial plant engineer, wanting to put in alternate fuel facilities, or energy conservation equipment, or additional storage capacity, will find that his chances for getting scarce investment dollars from his management will be seriously harmed by the enactment of S. 1503. Once a company makes the decision to rely on the Federal government in an emergency, the company becomes transformed into an advocate for use of such government authorities—another voice opposing the free market.

The memorandum continues:

In summary, unless the President vetoes S. 1503, it will send precisely the wrong signal to the private sector about the Federal government's energy policies and will serve as a powerful disincentive to encouraging free market preparation for and response to energy emergency situations.

Mr. President, the memo goes on. Another heading is "Enactment of this legislation would create unnecessary political problems in an election year." I might leave that for my colleagues to read on their own. I am sure they might be interested in what political problems are presented by this bill in an election year.

It has another section that says "The President should veto the Standby Allocation Act of 1982."

It closes by saying:

At issue is the question of whether the Administration will be seen as a "Fair Weather Free Marketer," relying on free market rhetoric, but acquiescing to regulatory programs upon the slightest pressure from Congress or from other sources.

In view of the serious public credibility issues, the proven historical ineffectiveness of standby price and allocation regulations, and the existence of effective energy supply emergency mitigation measures now in place, I strongly urge you to recommend to the President that he veto the Standby Petroleum Allocation Act of 1982 when it comes to him.

The memorandum is signed by Mr. William Vaughan, who is and was the Secretary in charge of emergency preparedness.

Mr. President, I ask unanimous consent that the full text of this memorandum be printed in the RECORD at the conclusion of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BRADLEY. Mr. President, as you probably have noticed, I think this is a bad bill and I shall vote against it. It is my expectation, though by no means a certainty, that within a short period of time, Congress might consider another round of emergency preparedness legislation and it is at that time that I would be willing to work with my distinguished colleagues on the committee and in Congress to try to break with past mistakes and frame a new alternative.

EXHIBIT 1

MEMORANDUM FROM ASSISTANT SECRETARY FOR EMERGENCY PREPAREDNESS

Subject: Recommendation to the President to Veto the Standby Petroleum Allocation Act of 1982.

To: Secretary.

(Through: Under Secretary.)

I. INTRODUCTION AND STATEMENT OF THE ISSUE

The House and Senate Conferees have agreed upon the Standby Petroleum Allocation Act of 1982 (S. 1503), and the Conference Report has been drafted. It is expected that Congress will pass the bill quickly. The purpose of this Memorandum is to recommend that you urge the President to veto S. 1503 when it reaches his desk. As is more fully discussed below, this bill is bad for America, bad for Energy Policy, and bad for the Administration.

II. S. 1503 (THE STANDBY PETROLEUM ALLOCATION ACT OF 1982) IS CONTRARY TO ADMINISTRATION POLICY AND CONTRARY TO THE BEST INTERESTS OF THE NATION

As you know, the Administration did not support, nor did it request this legislation. Indeed, the President, on a number of occasions, has taken the opportunity to state his unequivocal opposition to petroleum price and allocation controls (as well as his general opposition to burdensome Federal regulatory programs). For example, President Reagan's January 1980 Energy Policy Campaign Paper stated:

"I favor elimination . . . of Federal energy allocation rules. I favor immediate elimination of all Federal price controls on oil. . . ."

Most recently President Reagan spoke positively of the removal of price and allocation contols on oil in the State of the Union message when he said that:

"By deregulating oil we have come closer to achieving energy independence and helped bring down the cost of gasoline and heating fuel."

And the President's position is perhaps best summarized in the recent report entitled "Promises—A Progress Report on President Reagan's First Year" (January 1982), at page 22:

Progress: The Administration is opposed to energy allocation rules and opposed extension of the Emergency Petroleum Allocation Act. Market prices rather than government management will provide proper allocation in time of emergency. In addition, the Administration will continue to support the accelerated filling of a well-managed Strategic Petroleum Reserve and will encourage industry to accumulate petroleum reserves for their use. This known, predictable, constant policy allows energy consumers to make appropriate plans of their own and not be lulled into false security by a big federal program that won't work as well as the marketplace when/if a shortage occurs.

The Administration's opposition to the kind of legislation represented by S. 1503 is based upon the sound recognition that such legislation is contrary to the best interests of the United States. The legacy of over a decade of price and allocation controls over petroleum (not to say the many more years of regulation of natural gas wellhead pricing) has dramatically demonstrated that such controls interferred with efficient, economic and beneficial production, distribution and use of petroleum. The full extent of the harmful impacts on our nation's economy—in terms of lost jobs, higher prices, closed factories, etc.—as a result of such misguided regulation, can only be estimated. Certainly it would be doubly tragic for this Administration to perpetuate such past mistakes. Experience has clearly demonstrated that free market economic forces are and will continue to be the most efficient allocators of energy resources during supply disruptions. Standby allocation and price control authorities simply are not consistent with our public statements or actual and recent governing experience.

In light of the numerous standby energy supply contingency planning measures we have already initiated, this legislation is clearly unnecessary. Our aggressive expanded Strategic Petroleum Reserve fill actions and private industrial oil stockpiling initiatives will result in effective oil supply disruption mitigating measures. Expanded production of the Naval Petroleum Reserve is another policy which could be considered if circumstances became especially adverse. Standby emergency authorities are also available in the Defense Production Act and Trade Expansion Act to permit use to re-examine the validity of limited controls if a reassessment is conceived and effective Government response plan in existence without the standby allocation authorities in S. 1503.

III. ENACTMENT OF THIS LEGISLATION WOULD UNDERMINE THE CREDIBILITY OF THE ADMINISTRATION'S ENERGY POLICIES

The President should veto S. 1503 to avoid undermining the credibility of the Administration's policy of relying, to the maximum extent possible, on market forces to respond to energy shortage situations. The President should veto S. 1503 to maintain consistency with his previously well-established positions on energy policy and government regulation.

The argument has been made that, since the bill only requires "standby" regulations, the President, by signing S. 1503 would not compromise his free-market position. That argument is flatly incorrect. First, articles have already begun to appear questioning the Administration's energy policy, and the apparent—and puzzling—lack of Administration opposition to S. 1503. (See The Wall Street Journal, February 9, 1982, p. 30.) Already the question is being asked in the energy and industrial communities, "If the Administration opposes allocation and price controls, why didn't it oppose this legislation?"

Second, if the President signs the bill, the normal assumption will be that he is doing so because he can foresee some circumstance when he would envision using the authorities in the bill. Obviously, if the President never expected to need the bill's authorities, he would have vetoed it. Thus, if the President signs the bill, the focus of debate will be shifted to never-ending speculation on precisely when, and under what circumstances, the President will impose price and allocation controls on petroleum. The issue of reliance on the free market will be assumed away, given the fact of the availability of S. 1503's provisions.

Third, and most damaging, the enactment of S. 1503 will serve as a powerful disincentive to members of the private sector to pre-

pare on their own to prevent and/or respond to possible future energy emergency situations. An independent refiner, faced with the choice of negotiating an expensive long-term contract for crude oil now, or relying on spot market purchases and counting on a Federal government ball-out, will be encouraged by this bill to take a chance on government regulation in the future. And an industrial plant engineer, wanting to put in alternate fuel facilities, or energy conservation equipment, or additional storage capacity, will find that his chances for getting scarce investment dollars from his management will be seriously harmed by the enactment of S. 1503. Once a company makes the decision to rely on the Federal government in an emergency, the company becomes transformed into an advocate for use of such government authorities—another voice opposing the free market.

In summary, unless the President vetoes S. 1503, it will send precisely the wrong signal to the private sector about the Federal government's energy policies and will serve as a powerful disincentive to encouraging free market preparation for and response to energy emergency situations.

IV. ENACTMENT OF THIS LEGISLATION WOULD CREATE UNNECESSARY POLITICAL PROBLEMS IN AN ELECTION YEAR

Apart from the obvious difficulty of explaining a departure from the free-market philosophy of the President, enactment of S. 1503 would create some additional political problems. First, it requires that standby regulations be prepared by DOE and sent to Congress within 180 days after enactment. Second, it requires DOE to hold regional hearings in the preparation of those regulations.

Assuming the bill is enacted sometime about April 1, that would put the regional hearings and the transmission of the rules to Congress right in the middle of this year's congressional elections (as well as other State and local elections). Energy would become a much more central issue that it might otherwise be, and could drag in other energy issues, such as nuclear power, higher natural gas prices, etc. Coming off a cold winter, and significantly higher heating bills for many parts of the nation, this would not seem to be the best time for the Administration to be making energy such a central part of the election year campaign. And the requirement for regional hearings only exacerbates this problem.

V. THE LEGISLATION CONTAINS A NUMBER OF SPECIFIC PROBLEMS WHICH STRONGLY ARGUE FOR A VETO BY THE PRESIDENT

There are so many problems with S. 1503, that it would be difficult to provide an exhaustive list. Through its requirement for regulations establishing a crude oil sharing program, intricate priorities among users, and Federal approval of State energy programs, this legislation will require the reestablishment of the vast myriad of Federal regulations over oil and an elaborate Federal bureaucracy with significantly larger manpower requirements than currently budgeted and authorized. This flies directly in the face of President Reagan's achievements, announced in the State of the Union Message, regarding the substantial reduction in Federal regulations:

"Together, we have cut the growth of new Federal regulations nearly in half. In 1981 there were 23,000 fewer pages in the Federal Register, which lists new regulations, than there were in 1980."

Specifically, some of the major problems are as follows:

1. The bill requires that a standby crude oil buy/sell plan be prepared along with standby allocation regulations. As past experience shows, such regulations are difficult to draft (or to implement), and they spur a host of lawsuits, hearings, and related regulatory programs.

2. The bill takes word-for-word the objectives of the prior legislation, the Emergency Petroleum Allocation Act of 1973, and requires adherence to them in the new program. Not only are the objectives mutually exclusive, but there is a long history of litigation and administrative interpretation connected with them. If the President signs S. 1503, he is also adopting that long and dismal precedent as part of this Administration's energy policy.

3. The bill is in direct conflict with the President's Federalism program. S. 1503 requires extensive preemption of State and local energy laws, and also requires Federal approval of any State set-aside program. States currently have any number of different laws, in many different fields, from zoning to alcohol consumption, from interest rates to utility regulation. There is no reason to single out this area for Federal preemption, and many reasons not to; particularly given the results of Federal activity in energy regulation in the recent past.

4. The bill requires a number of reports, and also requires a specific and burdensome data collection program. All of this would require a large and costly bureaucracy to maintain, with little or no benefit to our nation's energy programs. And the new data collection requirement is in direct conflict with the Administration's efforts to reduce such unnecessary and burdensome reporting requirements on the private sector.

VI. THE PRESIDENT SHOULD VETO THE STANDBY PETROLEUM ALLOCATION ACT OF 1982

As has been described at length above, S. 1503 poses a serious threat to the credibility of this Administration's determination to place principal reliance on the free market to respond to energy emergency situations, as well as to respond to most other energy needs. At issue is the question of whether the Administration will be seen as a "Fair Weather Free Marketer," relying on free market rhetoric, but acquiescing to regulatory programs upon the slightest pressure from Congress or from other sources.

In view of the serious public credibility issues, the proven historical ineffectiveness of standby price and allocation regulations, and the existence of effective energy supply emergency mitigation measures now in place, I strongly urge you to recommend to the President that he veto the Standby Petroleum Allocation Act of 1982 when it comes to him.

WILLIAM A. VAUGHAN,
*Assistant Secretary.*

Mr. BRADLEY. Mr. President, I ask for the yeas and nays if they have not already been requested.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Who yields time?

Mr. JOHNSTON. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 7 minutes and 34 seconds. The Senator from New Jersey has 21 minutes and 38 seconds. The Senator from Idaho has 11 minutes.

Mr. DURENBERGER. Will the Senator from Louisiana yield me 10 seconds?

Mr. JOHNSTON. I am happy to yield to my friend from Minnesota.

Mr. DURENBERGER. Mr. President, it is my purpose in speaking today to urge my colleagues in the Senate to vote in favor of the Conference Report on S. 1503, the Standby Petroleum Allocation Act. For reasons that are clear to all of my colleagues, we need a very large vote in favor of this bill.

Before getting to those reasons, however, I would make one or two comments on the history of this legislation. That we have come this far is primarily due to the foresight and leadership of the chairman of the Energy and Natural Resources Committee, Senator MCCLURE. I have taken more than a small interest in the progress of this bill. Last year I joined with 15 other Senators in sponsoring S. 1476, the Petroleum Disruption Management Act, which had purposes similar to those advanced by the bill we take up today. So, Mr. President, I have been watching this issue move through the legislative process with some personal interest and I can say that it has only been through the persistence and legislative skill of the Senator from Idaho that the Senate is able to make this contribution to a more secure energy future for our Nation.

S. 1503 is important legislation. It replaces the Emergency Petroleum Allocation Act which for nearly a decade was the centerpiece of our national energy policy. There were many problems with EPAA. Those problems are not repeated in this bill. This bill does not require governmental intervention in the marketplace during periods of normal and stable supply. This bill does not mandate crude oil price controls or any other kind of price controls. This bill does not require entitlement payments or authorize gasoline rationing. This bill is not the continuing regulatory nightmare of EPAA.

S. 1503 will authorize the President at his discretion and with some oversight from Congress to employ selective petroleum management programs during periods of market disruption. Nothing is mandated. And any regulatory scheme implemented by the President under this act would sunset as soon as markets returned to normal periods. And yet, there are those who are saying that this bill would "undermine the credibility of the administration's policy of relying on the marketplace to the maximum extent possible."

Mr. President, I agree with the policy of "relying on the marketplace to the maximum extent possible." In fact, it is precisely because I agree with that policy that I will vote for S.

1503. This Nation has been through two petroleum disruptions in the last decade. Both did great damage to our economy. Both put a great deal of pressure on the Government to do something. And in both cases we did. And because we were not well prepared in either case, some part of what we did actually made the shortfall more disruptive.

S. 1503, if used by the President, could keep us from repeating the mistakes of petroleum policy that we have made in the past. If the President will take this legislation and clearly set forward the policy that the U.S. Government will pursue in any future shortfall, we can give the private sector the signals they need. And then, if a shortfall does occur, we will be able to rely on the private sector to the maximum extent possible. Vetoing this bill or refusing to write a sensible standby program does not strengthen the marketplace that the President would rely on.

The private sector has watched the Congress in the last two shortfalls. They know the implications of energy disruptions for this Nation. They can see the 50 States preparing their own individual disruption policies. They want to know the rules. And pretending somehow that we already have a policy that could survive the test of a major disruption is to deny the reality of the two disruptions that we have already experienced. We can do better than we have in the past and it is my sincerest hope that the President will see this legislation as his best opportunity to accomplish the objective of relying on the marketplace to the maximum extent possible.

Mr. President, there are many in the Senate and the House who have worked very hard to bring this bill through the process. I have already mentioned the tireless work of the chairman of our Energy Committee. I might add to that list Senator JOHNSTON and Senator MARK ANDREWS. The Senator from North Dakota made an important and early contribution on this issue by holding hearings on the impact of petroleum disruptions on the agricultural sector of our economy. I had the pleasure of working with him to draft the Petroleum Disruption Management Act, much of which I am pleased to say has survived the legislative process and is represented in the provisions of S. 1503.

I urge my colleagues to support this legislation. It is not hasty policy made during a national emergency. It is not a repeat of mistakes that we have made in the past. It does not undermine our belief that the marketplace should be used to allocate oil supplies. It is, rather, our best opportunity to be prepared as a nation for the next energy crisis and to be prepared in a way that will minimize the economic loss that petroleum shortfalls inevitably produce.

Thank you, Mr. President.

Mr. JOHNSTON. Mr. President, I am prepared to yield back as soon as my colleagues are. The hour is getting late.

Mr. EXON addressed the Chair.

Mr. JOHNSTON. Does the Senator wish to be yielded time?

Mr. EXON. The Senator does and he so advised the Senator from Louisiana, I thought.

Mr. JOHNSTON. How much time does the Senator want?

Mr. EXON. How much time does the Senator from Louisiana have?

Mr. JOHNSTON. Seven-and-a-half minutes.

Mr. EXON. I shall take 7 minutes.

Mr. JOHNSTON. Mr. President, I yield to the Senator from Nebraska, but I hope he will leave me a minute or two in case I want to respond.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I am pleased to lend my support here today to the conference report on S. 1503, the Standby Petroleum Allocation Act of 1982. It is vitally important to agricultural States, such as my State of Nebraska, that such a discretionary oil disruption management plan be in place to respond to crude oil and product shortages which are likely to occur at any time.

Presently, our Nation is without a standby emergency program. Fortunately, the current and temporary oil glut has provided us with some margin of safety. The President, however, apparently believes that the glut is here to stay. The Reagan administration has stated its opposition to this legislation on the grounds that it is not needed, and that the major oil companies can do a better job in coping with oil shortages.

Mr. President, S. 1503 would provide a more fair method of coping with oil disruptions. In an industry where the major oil companies control access to the majority of both foreign and domestic crude oil, a referee between the "haves" and the dependent "have-nots" is needed. This measure before us today provides for this appropriate referee role of Government in the event of crude oil and petroleum product emergencies.

Importantly, for our food-producing sector of the economy, the bill directs the President to give priority consideration to agricultural operations and the services directly related to agricultural production. In addition, this measure provides for a crude sharing program which would require certain refiners, such as the major oil companies, to sell a limited amount of crude oil to small, independent refiners. This is important to those farmer cooperative owned and operated refiners which, as independents, must rely upon the spot market and the willingness of the major companies to sell them crude oil. With farmer co-op refineries now serving nearly 45 percent of all onfarm fuel needs, it is vital to agriculture that such a crude sharing plan be available to insure some continuation of these supplies during a shortage.

Absent a governmental mechanism to act as a referee for the farmer co-op and other independent refiners which serve the rural areas of this Nation, the major oil companies would have little if any incentive during a supply shortage to serve rural regions at the expense of their more profitable urban accounts on the east and west coasts. Total reliance on the market, as the President recommends, ignores the realities of the monopolistic nature of the oil industry which is dominated by a few international corporate giants.

Also of importance to agriculture is the preservation of the State set-aside program. Under S. 1503, State Governors will be allowed to request that the President exempt a State's set-aside program from preemption by the Federal law. The set-aside would be limited to 5 percent, and could continue for more than 90 days unless the Governor requests an extension. As you may recall, Mr. President, the set-aside program was very important to the continuation of agricultural operations in 1979. Diesel fuel was in fact, already decontrolled at that time, and yet America's farmers were desperately searching for adequate supplies. The set-aside program did not relieve all of the problems, but did maintain most operations.

Mr. President, I call upon President Reagan to reconsider any plans he may have to veto this important legislation.

Indeed, this very afternoon, a memorandum from the Executive Office of the President has been circulating here, stating that the Secretary of Energy and the President's senior advisers will recommend that the President veto this measure. This information confirms a report in the February 26, 1982, Oil Daily that bureaucrats within the Department of Energy are seeking to scuttle this measure stating that it may "undermine the administration's policy of relying on market forces to respond to energy shortages."

In fact, Mr. President, this story quotes the Secretary of Energy as stating to the Oil Daily that "in the event of an oil cutoff, Congress could enact emergency legislation to deal with the situation."

Mr. President, I need not remind this body that the Emergency Petroleum Allocation Act was enacted under crisis management conditions. The very words of the President's own Secretary of Energy confirms ever so

strongly, that we must enact this standby measure now—and not in the midst of another crisis.

I urge the Senate to send this measure to the President with an overwhelming vote of support.

Certainly, we have all learned from our experience under the Emergency Petroleum Allocation Act. We have learned from the mistakes of that past law.

Mr. President, pursuant to a request made by this Senator immediately following the 1979 gasoline shortage, the General Accounting Office reported that the failure of the allocation program was primarily the result of pure and simple crisis management. The GAO reported that the Department of Energy's emergency response planning was incomplete and outdated, and that the effectiveness of the program had been plagued with inadequate management and unclear guidance and direction.

The GAO report underscored the importance of such a program in managing the distribution of supplies during shortage periods and recommended that, despite all its shortcomings during the 1979 crisis, the allocation program can be made into an effective tool. The EPAA was established in 1974, in the midst of the Arab oil embargo, and was never significantly revised until 1979, in the midst of another crisis. To this Senator, that brief record of performance is not clear and convincing evidence that S. 1503 is not needed. Let us not make the mistake of throwing out the contingency planning "baby" with the EPAA "bathwater." The GAO made several constructive suggestions and recommendations for improving the program and averting the inadequate planning, lack of preparedness, and absence of central responsibility and direction which had characterized the 1979 experience. Some 23 specific recommendations for changes and improvements were suggested by the GAO, most of which, the DOE itself agreed were needed.

A workable management plan for oil disruptions can be established. The program established by S. 1503 is, of course, not a cure-all for oil supply interruptions. Hardships and economic dislocations are bound to occur in spite of our best attempts. Efforts, however, must be made to mitigate the adverse impacts of an oil cutoff as part of an overall energy policy. Burying our head in the sand in hopes that the problem will go away or not occur, as the administration would have us do, demonstrates an insensitivity to issues of fairness and real-world consequences. Without such planning, as S. 1503 mandates, we are condemning ourselves to the crisis management practices of the past and forgetting our energy history.

Mr. President, our Nation still imports nearly 35 percent of its oil supplies. This represents an oil import bill of nearly $80 billion annually, and 6 million barrels per day of our total 17 million barrels per day oil needs.

It is certainly encouraging to this Senator from the State of Nebraska, to see that the Congress of the United States has not been lulled into a false sense of security by the current and temporary oil glut. It is such complacency as the administration has demonstrated, which led to our vulnerability in 1979, having failed to heed the warnings of the 1973 oil shock. The Middle East yet remains a volatile place, and we would be foolish, indeed, to believe that supply disruptions are no longer possible. Even the American Petroleum Institute has noted that there is a 75-percent chance of another oil supply disruption in the remainder of the 1980's. Tensions exist among Arab nations and Israel as well as within the Arab world itself. Terrorism is a frequent occurrence. Soviet activity in the Middle East continues as a threatening presence. Some of our strongest allies such as France, Italy, West Germany, and Japan, import 97 to 99 percent of their oil.

No, Mr. President, our energy problems are not over as the administration would have us all believe. The marketplace is fragile and can temporarily fail. Let Congress, however, not fail in making preparations for such eventualities. Our Nation can have an effective contingency program to reduce our vulnerability to world oil market disruptions if the Federal Government provided the crucial ingredient of commitment. It is unfortunate that the Congress must thrust this responsibility upon an unwilling Chief Executive. Support for the conference report on S. 1503, however, represents a step forward into our energy future. Inaction on this imperative legislation would surely be a step back into our energy past.

Mr. President, I do hope the Senate will decisively concur in the conference report that enacts S. 1503, for several reasons. The first is the strong threat of a Presidential veto that has persisted on this matter for a long time and been given emphasis in the pronouncement entitled "Statement of Administrative Policy" of the date of March 1, 1982, and marked "Urgent." It declares that the Secretary of Energy and other energy advisers will recommend a veto. I ask unanimous consent that the front page of this document be printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY, MARCH 1, 1982

S. 1503—STANDBY PETROLEUM EMERGENCY AUTHORITY ACT

The Administration is strongly opposed to the passage of the Conference Report to accompany S. 1503, the Standby Petroleum Emergency Authority Act.

The Secretary of Energy, and the President's senior advisors, will recommend that the President veto the measure.

FOR IMMEDIATE ATTENTION

Energy LA, Senate floor action scheduled this afternoon, March 2, 1982.

Urgent

Mr. EXON. Mr. President, if we are going to override a Presidential veto, and we may have to do that someday, even under President Reagan, this would be an excellent place for us to start.

In addition to the misconception that has been held by the Secretary of Energy on this matter, I quote again from the Oil Daily of Friday, February 26. It says that the Secretary of Energy told the Oil Daily he had some problems with the legislation and added that "in the event of an oil cutoff, Congress could enact emergency legislation to deal with the situation."

Mr. President, it seems to me that the Secretary of Energy, with that statement, has given every reason for the Senate to pass this legislation and, if necessary, to override a Presidential veto that he recommends because, very simply, this is standby legislation. It has been worked out very carefully and, I think, well by the committee. I think it should be enacted in order to have something in place in case we run into another serious situation with regard to oil.

Mr. President, I was Governor of my State at the exact time of the last serious interruption of oil. I can state that if we did not have some of the facilities that we had then to meet emergency needs in certain emergency areas with regard to oil, the economy of Nebraska could have come to a very quick, screeching halt.

Mr. President, it seems to me that those who are raising objections to this legislation, including the Secretary of Energy and possibly the President of the United States, are underestimating the difficulties that would befall our economy if we got into a sudden oil shortage without something like this in place to be enacted and declared active by the President when and if he felt it was necessary.

Mr. MITCHELL. Mr. President, I rise today in support of the conference report on S. 1503. There is no doubt in my mind that this bill is urgently needed to insure an adequate response to a severe petroleum supply shortage. Although I could speak today about the general provisions of the bill, I would like to limit my remarks to

those sections dealing with the establishment of a State set-aside system.

S. 1503, which the Senate overwhelmingly passed on October 29, provided for a Federal set-aside system on a standby basis only. While I supported this provision, I felt it did not go far enough in giving individual States the authority to implement a set-aside system in the absence of a Federal emergency. As such, I offered an amendment to the bill to give States, on a voluntary basis, the authority to set aside a small percentage of oil supplies entering the State, for use in emergencies. Unfortunately, my amendment was not accepted.

I am pleased that the House and Senate conferees were able to agree upon a compromise to allow a State to implement a set-aside system. In the absence of a federally imposed set-aside, section 208(c) of the conference report provides that a State, under State law, may implement a set-side system under the following set of limited conditions.

First, the Governor must request Presidential approval 10 days before he intends to implement the system. Second, the President must approve or disapprove the request within 10 days of notification by the Governor. Third, no more than 5 percent of the total supply of petroleum products entering the State, for consumption in that State, may be set-aside. Finally, the set-aside system must not continue for longer than 90 days.

There are two factors which, I think, need to be emphasized concerning a State's authority to implement a set-aside program as provided for in this bill. The first is that the Governor's authority to impose a set-aside program must be derived from State, not Federal law.

Thus, a State which does not feel the need for a set-aside system is under no obligation to develop one. The second is that the burden of proof is clearly on the Governor of a State to convince the President of the need to impose a set-aside system. While I would rather have given Governor's the authority to implement a set-aside system in the absence of Presidential approval, I believe the set-aside language, as contained in the conference report, represents a realistic compromise and deserves the Senate's support.

Mr. President, in no State is the need for the authority for the Governor to impose a State set-aside system more apparent than in my home State of Maine. Under the authority of the Emergency Petroleum Allocation Act, which expired on September 13 of 1981, States had the authority to participate in a set-aside program.

The State of Maine used its set-aside to provide heating oil and gasoline to farmers and fishermen during local supply disruptions. In other States, including Florida and New York, the set-aside was also used to mitigate the adverse impact on local supply shortages.

Mr. President, I think the current glut of oil on the world market has lulled some into a false sense of security concerning the impact a severe petroleum supply interruption could have on our economy. We ought not let this opportunity to insure an adequate national response to the potentially devastating effects of a supply interruption pass us by. I urge my colleagues to support the conference report.

● Mr. MURKOWSKI. Mr. President, I rise in support of the conference report on S. 1503. I supported S. 1503 when it was brought up on the Senate floor last October and I support the conference report on S. 1503 now. I have reviewed the conference report carefully and am satisfied that it incorporates the consensus position of the Senate. The conferees are to be commended for their fine work.

The conference report deserves the wholehearted endorsement of the Senate. For over 5 months the President has been without standby authority for the allocation of petroleum in the event of an oil emergency.

Fortunately, the petroleum market has been relatively stable during this period.

However, this stability and the current glut in petroleum supplies should not lull us into a false sense of security. As we have seen in the past, a disruption in petroleum supplies can occur suddenly and without warning.

I am aware that S. 1503 has been criticized as authorizing the reincarnation of the comprehensive and intrusive regulatory system we experienced in the past under the Emergency Petroleum Allocation Act. Some Senators have been so anxious to avoid such a result that they have argued that we should not provide the President with any authority, however carefully drafted.

I share the abhorrence of these Senators for the regulatory excesses that occurred under the EPAA. However, I am convinced that the safeguards which have been incorporated into the conference report will avoid this result.

As a careful reading of the conference report will reveal, allocation is granted on a standby basis and can be implemented only for a short period of time—a matter of months, not years as was the case under the EPAA.

Unlike the EPAA, allocation controls cannot be implemented at all unless the Congress approves.

Moreover, price controls would not automatically accompany allocation controls; instead they must be found by the President himself to be necessary for the effective implementation of the allocation program. In any event, the authority granted under this act would expire at the end of December 1984.

By incorporating these as well as other safeguards into the conference report, I am convinced that adequate precaution has been taken to insure that the regulatory excesses of the past will not occur again. Having guarded against that possibility, we should adopt the conference report on S. 1503 to insure that this Nation is prepared to respond effectively to an oil emergency. The alternatives of total reliance on market allocation or deferring legislative action until a crisis occurs would not be sound public policy.●

Mr. JOHNSTON. Mr. President, I think we are ready to yield for a vote if the Senator from Idaho is.

Mr. McCLURE. Mr. President, is the Senator from New Jersey prepared to yield back the remainder of his time?

Mr. BRADLEY. Mr. President, I am prepared to yield back the remainder of my time.

Mr. McCLURE. Before I do that, Mr. President, allow me to make this brief statement.

Mr. President, the issue of revenue recycling was debated at length last October when S. 1503 passed the Senate. At that time, I expressed my opposition to revenue recycling. The reasons for my opposition may be summarized as follows:

First. Revenue recycling is merely a theory that has not been proven to be workable. Complex computations would have to be made. To be effective, recycling would have to be conducted quickly, and that is doubtful unless distribution is made without regard to need. Private companies would object to making frequent changes in tax withholding rates. Large numbers of people are not "on the books" with the IRS or the social security system; recycling revenues to those persons would impose a substantial administrative burden on the Federal Government.

Second. There is no assurance whatsoever that revenue recycling would be fundamentally fair. To insure a fair distribution of revenues, detailed information would have to be gathered to identify those individuals most adversely affected. It would be virtually impossible to obtain the necessary information in a timely manner, and to then coordinate payments with the States.

Third. Revenue recycling presumes that there would never be a need for physical allocation of petroleum supplies during a severe shortage. It is very doubtful that the pricing mechanism would always serve as an effective allocator of supplies. It is quite likely that in certain locations supplies would not be available at any price, and the result would be irreparable

damage, regardless of whether recycled revenues were made available.

Mr. President, I am authorized on behalf of the Senator from Oklahoma (Mr. NICKLES) to yield back the remainder of his time, and I do so at this time.

Mr. President, let me respond to my friend from Louisiana and his generous remarks earlier about the work that it took to get us to this point. It certainly has been a bipartisan effort. I very much appreciate the efforts of the Senator from Louisiana and the ranking Democrat on the committee, the Senator from Washington (Mr. JACKSON). Without that effort and without full staff support, we would not have had the record of success we have had to this point.

In conclusion, Mr. President, I think it is worth noting that the major arguments against this legislation have been that it is another EPAA, which it is not, and that it makes a marginal shortage worse, which it does not do.

Nearly every argument that has been made here, aside from that of the Senator from New Jersey, who would have a completely different approach to the problem, is almost totally irrelevant to the measure before the Senate. I hope the action taken on the conference report will be similar to the action we took when S. 1503 was passed in the first instance.

Mr. BAKER. Mr. President, I sense that we are about to vote. I announce that there will be no record votes after this one this evening.

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, I have two questions about section 280 of the bill.

It is true, is it not, that the conferees of this bill did not take a position on the question of whether a State law that determines who shall bear the actual economic burden of State taxes imposed upon them constitues a "pricing or allocation of any petroleum product" as that term is used in section 280(a) of the act?

Mr. McCLURE. Yes, that is correct.

Mr. MOYNIHAN. Is the bill intended in any way to interfere with, or authorize the President or his delegate to interfere with, the legitimate State power of taxation?

Mr. McCLURE. No, it is not.

The PRESIDING OFFICER (Mr. ARMSTRONG). All time having been yielded back, the question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Wyoming (Mr. SIMPSON), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 86, nays 7, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—86

| | | |
|---|---|---|
| Abdnor | Ford | Matsunaga |
| Andrews | Garn | McClure |
| Baker | Glenn | Melcher |
| Baucus | Goldwater | Metzenbaum |
| Bentsen | Gorton | Mitchell |
| Boren | Grassley | Moynihan |
| Bumpers | Hart | Murkowski |
| Burdick | Hatch | Nunn |
| Byrd, Harry F., Jr. | Hatfield | Packwood |
| | Hawkins | Pell |
| Byrd, Robert C. | Hayakawa | Pressler |
| Cannon | Heflin | Proxmire |
| Chafee | Heinz | Pryor |
| Chiles | Helms | Randolph |
| Cochran | Hollings | Riegle |
| Cohen | Huddleston | Roth |
| Cranston | Inouye | Rudman |
| D'Amato | Jackson | Sarbanes |
| Danforth | Jepsen | Sasser |
| DeConcini | Johnston | Specter |
| Denton | Kassebaum | Stennis |
| Dixon | Kasten | Stevens |
| Dodd | Kennedy | Symms |
| Dole | Laxalt | Tower |
| Domenici | Leahy | Tsongas |
| Durenberger | Levin | Warner |
| Eagleton | Long | Weicker |
| East | Lugar | Williams |
| Exon | Mathias | Zorinsky |

NAYS—7

| | | |
|---|---|---|
| Armstrong | Mattingly | Quayle |
| Bradley | Nickles | |
| Humphrey | Percy | |

NOT VOTING—7

| | | |
|---|---|---|
| Biden | Simpson | Wallop |
| Boschwitz | Stafford | |
| Schmitt | Thurmond | |

So the conference report on S. 1503 was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 6:45 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE EMOTIONAL SCARS OF A SURVIVOR OF GENOCIDE

Mr. PROXMIRE. Mr. President, I feel proud today to tell you about a great writer. At the same time I feel sad because of the traumas he faced during his childhood.

Jerzy Kosinski is known to most of us for his acclaimed novels as well as for his excellent performance in the film "Reds." Many regard him a creative genius.

But, Mr. President, during the early years of Kosinski's life he endured great hardship. You see, Jerzy Kosinski is a child of the Holocaust. And Jerzy Kosinski is a Jew.

In 1939, when he was 6 years old, the Nazis occupied Poland, his homeland. Kosinski's parents did not expect to survive the war so they sent their son to stay with friends in the countryside to protect him. Soon after he arrived, though, the friends abandoned him. He was left to roam the land alone, begging to survive. He was not yet a teenager.

Due to a combination of strong will to survive and good fortune, Kosinski endured the years of Nazi occupation. Some time later, he moved to the United States.

The Holocaust has clearly left its mark on him. It is reflected in his novels. His main character is often "a knight in tarnished armor, a lonely wanderer, anonymous, a man with a highly idiosyncratic moral code," to quote Barbara Gelb of the New York Times.

In addition, Kosinski remains a paranoid individual. He finds secret hiding places in the various apartments in which he lives. Furthermore, he almost always carries a defensive weapon such as a slingshot or a can of mace when he leaves his home, and he keeps a machete in the trunk of his car.

Admits Kosinski, "I am always afraid that some oppressive societal force will go after me." More than 30 years after the Allies put an end to Hitler's final solution, Kosinski still lives in fear.

Mr. President, we are most fortunate that this brilliant man survived World War II so that we may share his talents today. For Jerzy Kosinski and for all other survivors of genocide campaigns, let us put the United States on record once and for all as proclaiming genocide the international crime that

it is. The way to accomplish this objective is to ratify the Genocide Convention.

## SENATOR JOE SEWALL—A MAINE LEADER

Mr. COHEN. Mr. President, I would like to share with my colleagues an article from a recent issue of Down East magazine profiling Joe Sewall, the president of the Maine Senate.

Senator Joe Sewall is truly a modern renaissance man. He is a sportsman, a public servant, a successful businessman, and a world traveler. As the article points out, he has held the post of president of the Maine Senate for four consecutive terms, a record in Maine.

When I was thinking about running for Congress in 1972, Joe Sewall encouraged me and gave me the benefit of his experience, his counsel, and his friendship. I have never forgotten his kindnesses during the early years of my political career.

Joe Sewall is stepping down from his post as Senate president this year, and the Maine Senate will be worse for his departure. I hope my colleagues will enjoy reading the following article about this very fine gentleman, gifted public servant, and true friend.

[From Down East magazine]

JOE SEWALL'S LAST HURRAH

(By John N. Cole)

It will be one of those questions that's asked from time to time at Maine quiz contests: "Who is the only person to be elected to four consecutive terms as president of the Maine Senate?

The answer is Joseph Sewall of Old Town, and as the years pass, it's a reply that's likely to become more and more difficult for Mainers to remember. He has been that kind of a Senate president: modest, nonpartisan, and careful to avoid the sort of impulsive actions that most often make State House headlines.

However, Joe Sewall must have been doing something right. Before he was elected to head the state Senate for the first time in 1975, the job had been held by 100 other Maine men, none of whom were ever reelected four times. Only two had been chosen for three terms, yet the list of past presidents includes some of the best known Maine names elected to public office: Hannibal Hamlin, who was Lincoln's first vice-president; Percival Baxter, who later became the state's governor and who gave Maine and the nation Baxter State Park; Horace Hildreth, also a Maine governor and a U.S. Senate nominee. There are other well-known names on the Senate president's roll, including John H. Reed, who went on to become a governor and ambassador.

This is the pattern of the Senate presidency; it has been used as a political stepping-stone by many of its alumni. Yet the man who has held the post longer than any of his predecessors has said he will leave public life when his current term as state senator from District 27 in Penobscot County expires at the end of this year. When he gavels the second session of the 110th Legislature into history sometime this spring, Joe Sewall will be effectively bringing to an end not only an unprecedented era in the Senate presidency, but also fourteen years of Senate service.

His decision is typical of the man and the way he has put his particular stamp on the State House job he has held for eight years. As Joe Sewall sees it, he has completed that job. It's one he has loved, and it's one which fulfilled his political ambitions, his reverence for tradition, and his sense of obligation to public service. He does not want to run for governor; he has never wanted to leave Maine to live in Washington, even though his contemporaries in politics and out agree that his record of performance qualifies him for Blaine House, Congress, or the U.S. Senate.

But Joe Sewall will be leaving Augusta for his home in Old Town. He wanted his fourth term at the Senate rostrum; he wanted it as a kind of cap on his career, a mark of distinction, evidence that he had done well at what he set out to do. But now that it's done, it's over.

If you sense an undercurrent of a Calvinist sense of duty, a determination to do well at whatever is essayed, a notion of obligation that some may consider old-fashioned, then—as students of the Sewall style will tell you—you are beginning to understand the man.

"He is," says Richard Barringer, now director of the State Planning Office, and former commissioner of the Department of Conservation, "a man of singular principle, style, and class."

As the then director of the Bureau of Public Lands, Barringer, a Democrat, had to work closely with Sewall, a Republican, when the bureau was first created.

"Joe was chairman of the Appropriations Committee then. It would have been easy, in some quarters expected, for him to make a partisan issue of general fund support for the bureau.

"And it would have been even easier for Joe to confuse the public lands issue with his own business connections with Maine's timber companies. Most of those companies opposed the public lands concept, and I think some of them expected Joe to be on their side.

"It was a difficult issue for him, a complex and sensitive issue. But he managed it with absolute fairness, better than anyone in that kind of public or political position I've ever seen, and I've served under three Maine governors, and one in Massachusetts.

"The bureau got the funds it needed to get on its feet. It's been self-supporting ever since."

It is difficult, on any side of the State House aisles, within any range of political opinion in Augusta, to elicit opinions that don't echo the sort of Sewall approval typified by Barringer's observations.

And the one comment made most often is: "He's a gentleman."

The word is an interesting choice in these times when democracy, equal rights, and a kind of national paranoia about any notion of elitism are so much a part of the public's self-image. Yet *gentleman* is still a word of several dimensions, signifying a range of characteristics that are known, that are positive, that are at once honorable and traditional.

It is a word that is used to identify Joe Sewall because of his past, and his presence.

The Sewall family has been a Maine family for nearly 250 years. The house that Joe and Hilda Sewall occupy in Old Town was built there nearly 150 years ago by Joe's great-grandfather, George P. Sewall, a Democrat who served as the Speaker of the Maine House in 1851 and '52. George was a grandson of Colonel Dummer Sewall, who arrived in Bath in 1764 and was sent to Massachusetts in 1774 as a delegate charged with helping to form the first provincial congress.

With that as his public service heritage, Joe Sewall's sense of duty toward his Senate responsibilities is eminently understandable. As is his sense of tradition—a sense reinforced by four undergraduate years at Bowdoin College, and service as a navigator aboard U.S. Navy aircraft during World War II.

Now sixty, he was forty-six when he was first elected to the Maine Senate in 1967—one of four (now five) Penobscot County senators. He served as chairman of the Natural Resources Committee in the 103rd Legislature, at a time when landmark environmental legislation was being created and strenuously debated.

"I ran for the Senate because I'd been involved with Old Town politics long enough," Sewall says in his distinctive, and definitely Maine Yankee, voice. His almost diffident dismissal of his public career in Old Town is typical. He had been a member of the city council there for nine years, and had also been named Old Town's mayor.

"You know," he says, with just a whisper of a smile, "helping to make Maine work is a good way to brighten up a winter. That's one reason I went to Augusta.

"I enjoyed the vitality in the State House. You've got a bunch of basically well-meaning people trying to solve problems. It's the people I liked best. They give and take. It's exciting, it's a kind of sporting event. There's always that challenge: can you get the job done?

"The legislature, this capitol, was a whole new world for me when I arrived. And," he laughs, "I didn't come for the money. No one does. John Martin [Speaker of the House] and I are the highest paid legislators, and we get $100 a week."

He looks down the capitol hall that runs the length of the building, under the rotunda, and ends at the doors to the House chamber. As always on a day when the legislature is in session, the corridor is a place in motion. People flow like a river's currents, eddying here and there in knots of conversation; or waving, nodding, exchanging words as they pass, traveling in their own current, to their own destination.

"None of these lawmakers is here for the money, that's for damn sure," he says. "They come for different reasons, but money isn't one of them. If they're like me, they come because being part of the process makes them feel alive, where the action is."

When Joe Sewall talks about the fulfilling pace of his Augusta days, it would be easy to assume that he would be home, whittling, if he were in Old Town. But, if he were not in Augusta, he would spend busy days (and has) at his "other" job: president of the surveying and forestry management business founded by his grandfather—the James W. Sewall Company. Observers (and competitors) in the industry will tell you that the company was small and relatively static when Joe Sewall took its reins as chief executive. It's now the largest company of its kind in Maine, has acquired a national reputation, and has consistently produced healthy earnings.

"I don't take too much credit for that," he says, again with typical reticence. "The key to the business is people. If you have good people, you'll have a good business. I've

been lucky. We've been able to hire good people."

This kind of modesty, this graceful sidestep that assigns credit to others, that deftly disposes of an issue, has been a Joe Sewall hallmark with the State House press corps that's covered the eight sessions of the legislature in which he has always been a pivotal figure. His avoidance of confrontation, his natural reserve, contrasted with his affable courtesy and the hospitality of his office (where the door is almost always open and coffee is always offered) have frustrated many State House reporters. He is such a pleasant, welcoming man that reporters often are led to expect a story they don't get.

It's not that Joe Sewall avoids the press, or that he has ever misled it; he does not, and has not. But neither does he volunteer information, nor use the press as a platform for his opinions. In fact, it has historically been difficult for even the most experienced reporters to learn if there is a Sewall position.

This, too, is part of his policy, his plan for the Senate presidency. "I've been asked over and over again," he says, "to be more partisan, to use the presidency as a platform for the Republican party. I've never done that, never. I've always believed making the government work for the people is the role of the Senate, the House, and the governor's office."

The governor's office is a place Joe Sewall has often visited. As the number one legislator on money matters when he first arrived and was named to head Appropriations, he had to work closely with Democratic Governor Ken Curtis. Then, as Senate president, he has been second in command to Independent James B. Longley and Democrat Joseph Brennan.

"I've always been elected from a Democratic district. I've always operated without a Republican governor, and without a Republican House. Still, we got the job done. That says something, I think."

One of the things it says is that Joe Sewall has learned how to communicate across party lines and past personality differences. "It's never been that much of a problem for me," he says, "working with Democrats, or Independents, or anyone.

"Ken Curtis had a good-guy exterior, but underneath he was a tough politician, a partisan. He pushed hard for what he wanted, but he also understood political reality. We could always work things out.

"Jim Longley, on the other hand, was much more unpredictable. He was good to work with," he pauses for effect, "as long as you agreed with him. Difficult if you didn't. He was always lobbing his unexpected bombs up to our floor, and we'd have to do the best we could with them. He kept the pot boiling, that's for sure.

"Joe Brennan is almost the exact opposite. He's downbeat, quiet about his work. But he gets the job done, in his own way. And he's been the best of the three for a Senate president who's a Republican to work with. He doesn't let politics get in the way very often.

"I don't think the man in the street wants politics. He wants performance. That's what I've tried to give. And, besides, I look good in a cutaway," Sewall says, smiling, giving this polite signal that he's been questioned energetically enough on the topic of why he's been elected to four terms as Senate president.

And he does look good in a cutaway. He observes that tradition, too, the one that requires the Senate president to dress appropriately when he's at the rostrum. His tall, lean figure, his balding head, his spectacles and prominent features are almost always in motion at the Senate podium; he has a bird's restless energy. He bangs the gravel sharply, is meticulous about procedure, yet impatient with needless delay, stalling, or confusion on the part of a senator who ought not to be confused.

Watching Joe Sewall do his daily job of running the Senate is a lesson in technique and presence. He is clearly in charge, yet he does not dominate this most handsome and most august chamber in the capitol. He has a sense of humor and a sense of place which he combines with skill and restraint. He's good at the job; that's all there is to it. His voice is strong and his decisions crisp.

And he respects the process and its history. As chairman of the Appropriations Committee and as Senate president, he has consistently pressed for the highest possible standards of capitol housekeeping and maintenance.

"This building is a fine capitol," he says, of the Bulfinch architectural landmark. "It says a great deal for Maine, and we ought to keep it looking its best."

To those ends, Sewall has hung some of his own marine paintings—a heritage of the original Sewall shipyards at Bath—in the Senate wing and the president's handsome, high-ceilinged, third-floor office in the capitol's southwest corner. Like his cutaway, the Brooks Brothers suits and button-down oxford shirts he wears when he's not on the rostrum, like the carefully arranged furniture in his meticulous office, and the fresh paint on the walls of the west entrance of the State House which he personally selected, the office is a well-orchestrated contributor to the total Sewall style. It is an unabashed effort at maintaining quality, preserving order, and respecting tradition.

These are, in the minds of many observers, the dominant Sewall characteristics. His reach for a kind of perfection, his attention to traditional detail, are two of the visible elements that prompt so many acquaintances to label Joe Sewall a "gentleman."

But those who know him better, those who have worked closely with him over the years, both as allies and adversaries, cite other, more substantial reasons for applying the same term.

State Senator Gerard P. Conley, a Portland Democrat, and a liberal who is often on the opposite side when Senate votes are tallied, has been Joe Sewall's nominal opponent for each of the eight years Conley has served as Senate minority leader. It is these two who confront each other when an issue divides on party lines. There are, in the mix of politics and personality, several solid reasons why Conley and Sewall could have feuded for most of the span of their parrallel careers. Instead, they are friends who respect each other.

"Joe is a square shooter," says Conley. "He has been, right from the day he started. We've had many differences, but I've always known that any time we sat down to iron them out, he would always be right by his word."

Staying "by your word" counts for much in Augusta. In a system where most complex issues are decided by informal discussions and debates outside the House and Senate, a lawmaker who gives his promise had better keep it. "If anyone goes back on his work," says Conley, "there's no hope for the system. Joe never backed off, not once."

By establishing his credentials with the opposition party, Joe Sewall has been able to move a great deal of landmark legislation through a Senate that has, numerically, been almost equally divided between Democrats and Republicans, liberals and conservatives.

The Sewall style of compromise rather than confrontation is a Senate rarity. Most often, the president follows the pattern first outlined by Josiah Pierce in 1835. "You have perhaps seen that I have been elected president of the Senate," he wrote to his wife in Gorham. "It is a post of great political power, as all the committees who transact the public business are appointed by the president. It is a place of great responsibility, in point of rank, next to the governor—the 2nd office in the state. I have great attention showed me. My pay is also double that of other senators—I have $4 a day."

The duties of the Senate president have not changed in nearly 150 years. Next to Maine's governor, the job is still the most important. Joe Sewall, however, has never seen the post as a platform for political power, but rather as a lever for prying performance from both parties.

"Joe has always had a unique capacity for getting people to work together," says Kenneth P. MacLeod, the Brewer Republican and former Senate president who named Sewall chairman of the Appropriations Committee in 1967. "When Joe ran Appropriations, we had very few divided reports. And you should remember that we had Louis Jalbert, a left-wing liberal, and Harold Bragdon, a right-wing conservative, on that committee. I don't think anyone but Joe could have gotten those two to work together. He's the best judge of people I've ever met."

Sewall, in turn, says he misses MacLeod. "We got some good things done in those days. I liked working with Ken, with men like Harry Richardson and Hollis Wyman.

"I'm not saying *these* days aren't as good as *those* days. But they're different. One of the major changes I've noticed in the years I've been here is the increasing complexity of the issues that come to the legislature.

"The men and women who come here now have to work harder, and they do. They're far more serious, more studious. That's because the issues are so much more technical. They make today's lawmakers work harder.

"I know. I don't see nearly as many legislators out at Augusta's watering spots, and I'm around looking for them, too." He laughs. It's well know in Augusta that Joe Sewall's zest for life is the equal of his zest to get the legislative jobs done right.

He gives himself a passing grade on the record of the sessions he's been part of. "We've taken care of a good many tough issues, starting with the environmental laws. We helped resolve the Indian land claims battle, the public lots issue, and we passed the state income tax. I know that wasn't a popular bill, but we bit the bullet and set Maine's financial house in order.

"Money is always the biggest issue here in the State House. At least, the money problems get the most ink, the biggest headlines. And it's likely that's not going to change in the future. But I don't think it's going to be a major problem. Maine is working. And, believe it or not, state government works along pretty damn well, too.

"The one thing I hope future sessions are on the lookout for is any erosion of the good environmental laws that we helped put in place. We've got to continue to keep from messing in our own nest."

He pauses reflectively and then returns to his topic: "The environmental legislation we

got through, these are bills I'm the proudest of. The oil conveyance law, the solution we worked out on public lands, the site selection law . . . those bills will always help protect and conserve Maine natural resources.

"That's Maine's real treasure—what nature has given it. That, and Maine's people. Together they make this a fine place. For me, it's the best place."

And it's a place to which Joe Sewall has contributed more than his years in Augusta. He was one of the first to energize investments in Sugarloaf, where he skied even before the first tow was installed at what is now one of New England's major ski resorts, and Maine's largest.

Even though Sewall is leaving elected office, it's doubtful that he will leave politics. It was Joe Sewall who first singled out William Cohen as a political young man on the way up, backed him in his first, and subsequent, run for Congress, and now watches with pride as Bill Cohen gets consistent good reports as Maine's senior U.S. Senator.

The retiring Senate president also takes pride in the role he played in the fortunes of another prominent Republican. "You know," he says, "I was running George Bush's primary campaign here in Maine. Lin Palmer and I. When we went to the convention in Portland, most people thought Howard Baker had the Maine GOP presidential nomination locked up. But Bush won it, and that's one of the victories that helped get him where he is." Where Bush is, of course, is in the vice-president's office, and Joe Sewall is too visibly pleased with the part he played in helping George Bush to ever pursuade anyone that Sewall will leave politics when he leaves the Senate.

But he will go back to Old Town, back to the house built by his great-grandfather, back to the company founded by his grandfather, where his son David has already begun to help him run things.

And Joe Sewall will continue to go to New Brunswick every June and July to fish the Upsalquitch for the Atlantic salmon he says is the only fish worth fishing for. It's a quest he's pursued most of his life, and, like so much of what he tries, fly-casting is a skill he's mastered.

He has never, however, been a predictable man, and on a winter day in Augusta, with the end of the 110th Legislature within view, he pushed his Senate president's chair back from his Senate president's desk and went to the window that looks east, toward the sea.

"You know what I'm going to do. I'm going to do some sailing. Going to sail across the Atlantic in a small boat. Well, not so small we can't be comfortable. A forty-five-foot yawl, or something like that. Seaworthy, but reasonable. It will be an adventure.

"We won't be going any special place, or trying to break any records. We may spend a winter sailing the Mediterranean. There are so many interesting ports to visit.

"There isn't that much time left for adventure, you know. I'd like to try it while there's still time." He turns, with the manners that have become his hallmark, to see his visitor out.

Walking along the State House hall that leads to the corridor, Joe Sewall points to his photograph hanging there, the last in a row of 101 portraits of Maine men who have been Senate president since 1820.

"I'm out here on the end," he says, "but before the blink of a cosmic eye, I'll be back here in the middle somewhere, and Maine will be dealing with a whole new set of problems."

The setting, the observation, are typical of Sewall's sense of Maine, his concern for tradition, his modesty. But, if anyone studying the gallery wants to tally the dates under each portrait, the arithmetic will tell them that Joseph Sewall has been Maine's Senate president longer than any of the others. And most people in both parties in the State House today will tell you he's been the best.

## THE RIGHT TO KEEP AND BEAR ARMS

Mr. SYMMS. Mr. President, I have previously discussed the fact that the founders of our Nation viewed the right to keep and bear arms as a natural right of the individual. Being a natural right, it is not dependent upon the good graces of any government or ruling body, nor dependent upon any manmade law for its existence. The importance given this right by the framers of the Constitution was acknowledged by Chief Justice Story when in his commentaries on the Constitution he wrote:

The right of the citizens to keep and bear arms has justly been considered as the palladium of liberties of the republic since it offers a strong moral check against usurpation and arbitrary power of rulers * * *.

Still, in spite of the intent of those who established our Nation, there are many today that belittle the need and importance of this right. The claim is made that even though Congress may not interfere with this right, States and localities are under no such prohibition. It is asserted that the second amendment is of little practical importance today and, unlike many other amendments in the Bill of Rights, has not been made applicable to the States by the courts or the 14th amendment.

Such a belief is incorrect. The founders of our Nation and those involved in its struggle for independence sought to provide guarantees of individual liberties at all levels of our government. Nor was such concern for guarantees of individual liberties unique to the time our Nation came into being.

When Congress considered what was to become the Civil Rights Act of 1866, the then chairman of the Senate Judiciary Committee, Senator Lyman Trumball of Illinois, pointed out that basic, fundamental rights were being denied blacks by local and State statutes. These statutes, more commonly known as black codes because of their purpose to deny blacks certain rights such as to "prohibit any Negro or mulatto from having firearms" were specific attempts by certain States to abridge fundamental rights.

In enacting the Civil Rights Act of 1866, the Congress purposefully overrode States' attempts to deprive certain citizens of basic rights such as the ability to contract, to sue and engage in commerce, to receive equal justice, and to keep and bear arms.

Following the Civil Rights Act, a further, more sweeping proposal aimed at bolstering the individual freedoms of all Americans was undertaken by the Congress. The 14th amendment became the focal point in continuing at the State level what had been begun at the Federal level by the Bill of Rights; that is that certain rights could not be infringed by any level of government.

In debate on the floor of the Senate, Senator Jacob Howard of Michigan argued that adoption of the 14th amendment was needed to protect personal rights against State legislation:

The personal rights guaranteed and secured by the first eight amendments of the Constitution: such as freedom of speech and of the press; * * * the right to keep and bear arms * * *. The great object of the first section of this amendment is, therefore, to restrain the power of the States and compel them at all times to respect these great fundamental guarantees.

Representative John Bingham of Ohio, credited with being the originator of the 14th amendment, made the very clear statement that whatever the status of the Bill of Rights prior to passage of the 14th amendment, upon passage of the 14th amendment, the Bill of Rights become applicable to the States:

Mr. Speaker, that the scope and meaning of the limitations imposed by the first section, 14th amendment of the Constitution may be more fully understood, permit me to say that the privileges and immunities of citizens of the United States, as contradistinguished from citizens of a State, are chiefly defined in the first eight amendments to the Constitution of the United States. Those eight amendments are as follows:

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of people peaceably to assemble, and to petition the Government for redress of grievances.

AMENDMENT II

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed * * *.

These eight articles I have shown never were limitations upon the power of the States, until made so by the 14th amendment. The words of that amendment "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," are an express prohibition upon every State of the Union * * *.

Stephen Halbrook writing in the spring 1981 issue of George Mason University Law Review commented upon the above:

This is a most explicit statement of the incorporation thesis by the architect of the 14th amendment. Although Representative Bingham based his theory of incorporation on the privileges and immunities clause and not the due process clause as did subsequent court decisions, Representative Bingham could hardly have anticipated the judicial metaphysics of the 20th century in this re-

spect. In any case, whether based on the due process clause or on the privileges and immunities clause, the legislative history supports the view that the incorporation of amendments I through VIII was clear and unmistakable in the minds of the framers of the fourteenth amendment.

Mr. President, many point to the Supreme Court case of Barron against Baltimore to show that the Bill of Rights was not intended to apply to the States. Such an issue has been swept aside by adoption of the 14th amendment. The intent of the amendment was to insure protection of individual liberties from unbridled State action. Nonetheless, remembering the judicial metaphysics alluded to by Mr. Halbrook, it has taken the Supreme Court over half a century to incorporate portions of our Bill of Rights through the 14th amendment. It was not until 1925 that the Supreme Court took action to guarantee freedom of speech from unreasonable State prohibitions and not until the sixties that other major provisions guaranteeing individual rights were incorporated by judicial decree. Though the Supreme Court has taken upon itself the role of arbiter of individual rights, it is quite evident in the case of the right to keep and bear arms that they have ignored the intent of the 14th amendment and instead have followed their own counsel.

But, Mr. President, perhaps such feelings regarding Supreme Court actions on the right to keep and bear arms are unjustified. The major Supreme Court cases that are looked to for pronouncements on the second amendment are United States against Cruikshank, Presser against Illinois, and Miller against Texas. Certainly lower courts and much of the popular press have interpreted these cases as meaning the Supreme Court has declared that the 2d amendment does not act as a restraint on State antigun actions. But I am not satisfied that such is a correct interpretation of the Court's intent. At this point I would like to submit for the consideration of my fellow Senators portions of an article written by Stephen P. Halbrook and appearing in the spring 1981 issue of the George Mason University Law Review. Mr. Halbrook has shown extraordinary insight in this issue and disputes the widely accepted "conventional wisdom" on the meaning of these cases.

V. THE SUPREME COURT SPEAKS

Despite the fact that the fourteenth amendment did not exist when Chief Justice Marshall wrote the opinion in *Barron* v. *Baltimore*, which held the Bill of Rights inapplicable to the states, the precedental influence of this case remained long after 1868 to the extent that selective incorporation by the Supreme Court did not begin until the turn of the Century—only to be more fully developed in the 1960s. However, antebellum state courts were far more progressive, having held fundamental rights guaranteed in the Bill of Rights as protected from state deprivation. Even the notion of selective incorporation, whereby some Bill of Rights freedoms were considered applicable to the states, was originated by state courts. The opinion in the Texas case of *English* v. *State*, in assuming that the second amendment applied to the states, referred to the right to keep and bear arms as a "personal right" which was "inherent and inalienable to man." Owing to the fundamental character of the right, the court approvingly cited the following from *Bishop's Criminal Law:* "[T]hough most of the amendments are restrictions on the general government alone, not on the States, this one seems to be of a nature to bind both the State and National Legislatures, and doubtless it does."

Implicit rejection of the applicability to the states of the Bill of Rights via the fourteenth amendment was initiated in the *Slaughterhouse Cases*, the first Supreme Court opinion to construe the Reconstruction amendment. This now discredited opinion was soon followed by *United States* v. *Cruikshank*, which remains the primary precedent for the proposition that the fourteenth amendment implies no right to keep and bear arms. Actually, the Court decided nothing of the kind, and *Cruikshank* is susceptible to the interpretation that the right to bear arms is a fundamental right.

The defendants in *Cruikshank* were convicted under the Enforcement Act of 1870 of conspiracy to deprive Levi Nelson and Alexander Tillman, both "of African descent and persons of color," of their rights to free speech and to keep and bear arms as guaranteed by the first and second amendments. The Court decided in reference to the first amendment that it "was not intended to limit the powers of the State governments in respect to their own citizens, but to operate upon the National government alone." Regarding the seizure of complainant's arms by the alleged conspirators, the Court stated:

The second and tenth counts are equally defective. The right there specified is that of bearing arms for a lawful purpose. This is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed: but this . . . means no more than that it shall not be infringed by Congress. This is one of the Amendments that has no other effect than to restrict the powers of the national government, leaving the people to look for their protection against any violation by their fellow-citizens of the rights it recognizes to . . . the powers which relate to merely municipal legislation, or what was, perhaps, more properly called internal police. . . .

This passage may be reduced to two propositions. First, that bearing arms was not a right granted by the Constitution, but existed independently of that charter since this right long antedated the Constitution. Using similar language, the Court, only two pages before, had explained more fully its meaning in reference to the first amendment:

The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is, and always has been, one of the attributes of citizenship under a free government. It derives its source . . . from those laws whose authority is acknowledged by civilized man throughout the world. It is found wherever civilization exists. It was not, therefore, a right granted to the people by the Constitution. The government of the United States when established found it in existence, with the obligation on part of the States to afford it protection.

Thus, while the first and second amendments only applied to the federal government, the rights of the people to assemble publicly and to bear arms were basic to the kind of free civilization which the states were bound to protect.

The second proposition embodied in the Court's language was that the second amendment (like the first) only restricted the powers of the national government in the sense that private infringement of the right could be remedied only in the state courts. Far from denying that the states need not respect any right to keep and bear arms, the Court averred that municipal legislation and internal police rather than federal authority must protect this right. By analogy, the Justices reasoned that: "It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State, than it would be to punish for false imprisonment or murder itself." The federal courts could not prosecute defendants accused of conspiracy to deprive complainants of their freedom of action and their firearms for these violations were common law crimes actionable only at the local level.

Lastly, the Cruikshank Court could not offer relief on the basis of the fourteenth amendment because private conspiracy rather than state action was involved:

The Fourteenth Amendment prohibits a State from depriving any person of life, liberty, or property, without due process of law; but this adds nothing to the rights of one citizen as against another. It simply furnishes an additional guaranty against any encroachment by the State upon the fundamental rights which belong to every citizen as a member of society.

The rights to free assembly and possession of arms were considered fundamental rights of the citizen, but the encroachment by the state on these rights was not an issue in Cruikshank since no state action was alleged and thus, complainants were denied relief.

Whatever its constitutional grounds, the Supreme Court chose not to protect the black's right to free speech and possession of arms, and Cruikshank came to symbolize, and perhaps to hasten, the end of Reconstruction. "Firearms in the Reconstruction South provided a means of political power for many. They were the symbol of the new freedom for blacks . . . . In the end . . . the blacks were effectually disarmed." The black historian W. E. B. DuBois contended that arms in the hands of blacks, and hence possible economic reform, aroused fear in North and South alike, resulting in such decisions as Cruikshank which made the fourteenth amendment an instrument of protection for corporations rather than freedmen. Justice Thurgood Marshall recently referred to Cruikshank in these terms: "The Court began by interpreting the Civil War Amendments in a manner that sharply curtailed their substantive protections."

Unlike the fact pattern in Cruikshank, state action was involved in Presser v. Illinois, the second Supreme Court decision to treat the issue regarding the relation between the second amendment and the states. Presser was indicted under an Illinois act for parading a body of four hundred men with rifles through the streets of Chicago without having a license from the gov-

ernor. The participants were members of Lehr and Wehr Verein, a corporation of German immigrants whose stated objectives were education and military exercise to promote good citizenship. The Court upheld the finding of guilty against defendant's claim that the state legislation violated the second amendment:

We think that the sections under consideration, which only forbid bodies of men to associate together as military organizations, or to drill or parade with arms in cities and towns unless authorized by law, do not infringe the right of the people to keep and bear arms. But a conclusive answer to the contention that this amendment prohibits the legislation in question lies in the fact that the amendment is a limitation only upon the power of Congress and the National government, and not upon that of the States. It was so held by this court in the case of *United States* v. *Cruikshank* . . . .

In short, the Court held that the armed paraders went beyond the individual right of keeping and bearing weapons, and in the alternative and more generally, that the second amendment does not apply to the states. The former proposition was explained further in the Court's rejection of a first amendment right of assembly applicable to Presser's band:

The right voluntarily to associate together as a military company, or to drill or parade with arms, without, and independent of, an act of Congress or law of the State authorizing the same, is not an attribute of national citizenship. Military organization and military drill and parade under arms are subjects especially under the control of the government of every country. They cannot be claimed as a right independent of law.

Thus, *Presser* does not apply to the issue of the right of individuals to keep and bear arms, but is directly applicable to situations involving essentially private armies.

This latter proposition, that *Cruikshank* "held" that the second amendment is not a limitation on the states, ignored the fact that *Cruikshank* did not involve state infringement of rights. And while *Presser* was thereby really the first Supreme Court decision to hold the second amendment inapplicable to the states, it made no mention of whether the fourteenth amendment might guarantee a right to keep and bear arms. Still, *Presser* upheld the concept of an arms bearing population on article 1, section 8 grounds:

It is undoubtedly true that all citizens capable of bearing arms constitute the reserved military force or reserve militia of the United States as well as of the States; and, in view of this prerogative of the General Government . . . the States cannot, even laying the constitutional provision in question out of view, prohibit the people from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining the public security, and disable the people from performing their duty to the General Government.

In short, even if the second amendment did not apply to the states, the right to keep and bear arms existed for all citizens capable of bearing arms, and this right could not be infringed by the states. However, this principle did not prevent the Court from affirming the conviction of the German nationalist leader, just as in the earlier precedent the Court found no reason to protect the freedom's rights. This affirmation might lead the legal realist to the sociological conclusion that *Cruikshank* and *Presser* reflected the fear of established American ethnic groups to the challenges of blacks and foreigners.

*Miller v. Texas*, the final opinion by the high Court to rule directly on the second amendment in respect to its non-application to the states, clarified that its predecessor cases both refrained from deciding whether the fourteenth amendment included a prohibition of state infringement on the right to keep and bear arms. Convicted of murder and sentenced to death, defendant Miller "claimed that the law of the State of Texas forbidding the carrying of weapons, and authorizing the arrest without warrant of any person violating such . . . was is [*sic*] conflict with the 2nd and 4th Amendments to the Constitution. . . ." While assuming that the restrictions of these amendments operate only upon the federal power, the Court left open the possibility that the right to keep and bear arms and the right against warrantless arrests or unreasonable seizures may apply to the states through the fourteenth amendment: "[I]f the 14th amendment limited the power of the States as to such rights, as pertaining to citizens of the United States, we think it was fatal to this claim that it was not set up in the trial court." Rather than rejecting incorporation of the second and fourth amendments into the fourteenth, the Supreme Court refused to decide the claim because its powers of adjudication were limited to the review of errors timely objected to in the trial court, thereby precluding it from hearing such novel arguments. In sum, the careful distinction drawn by the *Miller* Court between rights based solely on provisions in the Bill of Rights and those based on the fourteenth amendment and the Court's reliance on *Cruikshank* and *Presser*, demonstrate that none of the three cases resolved the issue of whether the fourteenth amendment prohibited the states from infringing upon the right to keep and bear arms. Indeed, dictum in *Cruikshank* suggests that although this right was not within the federal conspiracy statute, the right to bear arms, like the right to free speech, is a fundamental right which existed prior to the Constitution and which every free civilization is bound to respect.

While *Cruikshank*, *Presser*, and *Miller* were the only nineteenth century Supreme Court cases where the nature of the right to bear arms was at issue, the case of *Robertson* v. *Baldwin*, which considered whether compulsory service of deserting seamen constituted involuntary servitude, treated arms bearing as a fundamental and centuries-old right which could not be infringed. Referring to the seaman's contract as an exception to the thirteenth amendment, Justice Brown, who delivered the opinion of the Court, analogized:

The law if perfectly well settled that the first ten amendments to the constitution, commonly known as the Bill of Rights, were not intended to lay down any novel principles of government, but simply to embody certain guarantees and immunities which we had inherited from our English ancestors, and which had from time immemorial been subject to certain well-recognized exceptions arising from the necessities of the case. In incorporating these principles into the fundamental law there was no intention of disregarding the exceptions, which continued to be recognized as if they had been formally expressed. Thus, the freedom of speech and of the press (art. 1) does not permit the publication of libels, blasphemous or indecent articles or other publications injurious to public morals or private reputation; the right of the people to keep and bear arms (art. 2) is not infringed by laws prohibiting the carrying of concealed weapons . . . .

In this striking passage, the Supreme Court recognized the right to bear arms as having existed "from time immemorial," having been handed down as a guarantee of Englishmen long predating its formal expression in the second amendment, and as being part of "the fundamental law." That the prohibition of carrying concealed weapons did not infringe upon this right indicates that the Court viewed the right as belonging to individuals, for such issue is not relevant to an organized militia. The Court's reference to concealed weapons legislation referred to state statutes concerning the manner in which private persons carried handguns and other small weapons in public: there certainly were not statutes prohibiting active militiamen from carrying concealed weapons. The Court's pronouncement also suggests that the individual right to carry weapons openly, by being basic to our system of government, was protected from both federal and state infringement—otherwise, it would be ludicrous to speak of state statutes prohibiting carrying concealed weapons as not infringing on the right to bear arms, for by definition *no* state statute could infringe on this right if the right was protected only from federal infringement and was not part of the fundamental law.

### VII. UNITED STATES V. MILLER

The nearest the Supreme Court has come to a direct construction of the meaning of the second amendment was the case of United States v. Miller in which the Court reversed a district court judgment which held the National Firearms Act of 1934 invalid as violative of the second amendment. Defendants had been convicted of transporting in interstate commerce a shotgun having a barrel less than eighteen inches without having in their possession the stamp-affixed written order required under the Act, which was the first federal statute ever passed, which regulated, through taxation and registration, the keeping and bearing of certain arms.

Since the defendant-appellees made no appearance on appeal, the Supreme Court was only apprised of the cases and arguments which the United States attorneys brought to its attention, and thereby failed to benefit from hearing the adverse views necessary to render a balanced opinion. Even so, the opinion of the Court, delivered by Justice McReynolds, stands for the proposition that the United States government cannot regulate the right to keep and bear arms suitable for militia use but can regulate possession of arms unsuitable for militia use. The Court began the opening of its brief analysis of the second amendment in these terms:

"In the *absence of any evidence* tending to show that possession or use of a shotgun having a barrel of less than eighteen inches in length at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is *not within judicial notice* that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense. *Aymette* v. *State*. 2 Hump. 154, 158."

The italicized portions above do not indicate that possessing the "sawed-off" shot-

gun was unprotected by the second amendment, but only that no evidence was presented on the matter and the facts were not of such common knowledge that judicial notice could be taken. Most significantly, the Court assumed that the weapon had not been shown to be "ordinary military equipment" which "could contribute to the common defense"—had such evidence been shown, the Court's wording implies that its possession by an individual would be protected.

This assumption is further made explicit by reference to the Aymette case, which stated with respect to the right of each individual to bear arms: "If the citizens have these arms in their hands, they are prepared in the best possible manner to repel any encroachments upon their rights, etc. "Even so, the Tennessee Constitution's guarantee of the people's right "to keep and bear arms for their common defense" contained the very qualification explicitly rejected when the second amendment was ratified, and thus the Supreme Court's restriction to individual possession of military arms was misguided.

The Court proceeded to cite the militia clause of the Consititution and stated that its purpose was "to assure the continuation and render possible the effectiveness of such forces." The Court clearly perceived this militia as the armed people: "The sentiment of this time strongly disfavored standing armies; the common view was that adequate defense of Country and laws could be secured through the Militia–civilians primarily, soldiers on occasion." In more detail:

The signification attributed to the term Militia appears from the debaters in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators. These show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense. A body of citizens enrolled for military discipline. And further, that ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time.

Having cited Blackstone to the effect that King Alfred "first settled a national militia," The Court quoted Adam Smith: "Men of republican principles have been jealous of a standing army as dangerous to liberty . . . . In a militia, the character of the labourer, artificer, or tradesman, predominates over that of the soldier . . . . " A review of the militia acts of the pre-Constitution colonies followed, beginning with these generalizations from the historian Osgood "In all the colonies, as in England, the militia system was based on the principle of the assize of arms. This implied the general obligation of all adult male inhabitants to possess arms . . . . The possession of arms also implied the possession of ammunition. . . ."

In 1784, the General Court of Massachusetts directed that "all able-bodied men" under sixty years of age be available for the Train Band or Alarm List, and each individual "shall equip himself, and be constantly provided with a good fire arm. . . ." Defining "every able-bodied Male Person" who resided in the state between ages sixteen and forty-five a militiaman, the New York Legislature directed each to "provide himself, at his own Expense, with a good Musket or Firelock" and ammunition. Finally, the General Assembly of Virginia in 1785 declared, "the defense and safety of the commonwealth depend upon having its citizens properly armed," and directed that "all free male persons" between ages of eighteen and fifty be considered members of the militia who were obliged not only to be armed on muster day with a clean musket or rifle, cartridges, a pound of powder, lead, and other equipment, but also to "constantly keep the aforesaid arms, accoutrements, and ammunition. . . ."

The Supreme Court's historical review demonstrated its recognition that the "well regulated militia" referred to in the second amendment meant the whole armed masses, that each private individual had the right and duty to keep and bear arms, and that the people were to provide their own armed protection rather than depend on a militarist and oppressive standing army. The Court not only sanctioned the view that the whole armed population, not simply the organized armed minorities on the payroll of the United States or state governments (i.e., the four branches of the national "armed forces" and the "National Guard"), was responsible for protecting the people's freedom and implied that the standing army was contrary to "the security of a free state" and unconstitutional.

Next, the Court pointed out: "Most if not all of the States have adopted provisions touching the right to keep and bear arms. Differences in the language employed in these have naturally led to somewhat variant conclusions concerning the scope of the right guaranteed." While asserting that these provisions failed to support the defendants in this case, this statement reaffirmed that the right to keep and bear arms was clearly "guaranteed."

Perhaps the most significant portion of the brief Miller opinion was the footnotes which the Court labelled "some of the more important opinions and comments by writers. . . ." Although virtually all these notes are reviewed in detail above, as approved authorities, they merit summarization here to further clarify the Court's determination in 1939.

The note begins by citing Presser v. Illinois and Robertson v. Baldwin. As seen previously, Presser only held that the second amendment did not protect private armies marching through a city without a permit, and asserted that the states could not prevent the armed people from doing their duty as a militia under the Constitution. The latter case, in dictum, viewed the right to keep and bear arms (which it failed to restrict to arms appropriate to a militia) as a fundamental privilege and immunity which antedated the adoption of the Constitution. The Robertson Court further implied that an individual right to keep and bear arms was protected from state and federal infringement, since the Court sanctioned regulation of concealed weapons, an issue hardly relevant to the organized militia.

Aside from the above two Supreme Court cases, the Miller Court, largely in the aforementioned note, referred to several state cases. In order of appearance, the following were cited:

The Arkansas case of Fife v. State, upheld the right of individuals to bear large, but not pocket, pistols to enable the people to resist domestic oppression. It should be noted that the state constitutional provision in question qualified the right to keep and bear arms for the "common defense," a qualification which was defeated in debates over the second amendment. Arguably, possession of concealed pocket pistols is thereby protected by the amendment.

The Georgia case of Jeffers v. Fair, upheld the right of the Confederate States of America to conscript men to combat the invasion of their soil from domestic tyranny transformed into foreign invasion. The case discussed the value of the militia in a general manner without expositing directly the second amendment, or its equivalent in the Confederate Constitution, which adopted identical wording.

The Kansas case of Salina v. Blaksley, which in dictum stated that the right to bear arms applied to members of the militia, also assumed that the masses were the militia in concluding that only weapons not ordinarily used in civil warfare were not protected by the amendment. In addition, this presupposed the applicability of the second amendment to the states.

The Michigan case of *People* v. *Brown*, not only defined the militia as "all able-bodied men" but went further and determined that each private individual may bear arms which have no militia purpose. Brown in turn was partly based on *People* v. *Zerillo*, which held that the state could not make it criminal for anyone, even an alien, to possess a revolver for self defense.

The Tennessee case of *Aymette* v. *State*, upheld the possession by "the citizens" of arms appropriate for militia use under a state constitution which referred to arms kept "for their common defense"—a restriction non-existent in amendment II.

The Texas case of *State* v. *Duke*, while averring that the second amendment did not apply to the states, held that large pistols could be carried legitimately, and that the term "arms" was more comprehensive than only the "arms of militiaman or soldier." The types of arms commonly and customarily kept were protected by the state constitutional provision.

The West Virginia case of *State* v. *Workman*, upheld protection under the second amendment of individual possession of swords, guns, rifles, and muskets to protect civil liberty.

All of the above cases, defining the militia as the whole people, asserted the right of each individual to keep and bear arms with a military use; the same precedents are split on whether second amendment protection extends to weapons not ordinarily used for militia purposes and on whether the amendment applied to the states.

Lastly, the Miller Court's note sanctioned Justice Story's exposition of the amendment, which stressed, "the right of the citizen to keep and bear arms has justly been considered, as the palladium of the liberties of the republic," in part to resist the usurpations of rulers. Those who argue that the United States armed forces and National Guard now take the place of the militia have a confidence in standing armies and rulers which Justice Story would have considered naive. Furthermore, the faith presupposed by such advocates in the armed state and their concomitant lack of faith in the armed people, appears curious considering their stress on the militia concept as a limitation on the right to bear arms and their constant reiteration that the Constitution's framers rejected the standing army—all of which such advocates find laudable. Justice Story's comments, endorsed by the Supreme Court, remain valid political philosophy today.

The comparable exposition of the second amendment by Judge Thomas M. Cooley was also approved by the Court in the same note:

The right declared was meant to be a strong moral check against the usurpation and arbitrary power of rulers, and as a nec-

essary and efficient means of regaining rights when temporarily overtuned by usurpation.

The Right is General—It may be supposed from the phraseology of this provision that the right to keep and bear arms was only guaranteed to the militia: but this would be an interpretation not warranted by the intent . . . . But the law may make provision for the enrollment of all who are fit to perform military duty, or of a small number only, or it may wholly omit to make any provision at all; and if the right were limited to those enrolled, the purpose of this guaranty might be defeated altogether by the action or neglect to act of the government it was meant to hold in check. The meaning of the provision undoubtedly is that the people from whom the militia must be taken, shall have the right to keep and bear arms and they need no permission or regulation of law for the purpose . . .

Despite Judge Cooley's imploration, the Supreme Court reversed the judgment of the district court and remanded the case for further proceedings. Although the judgment against the right to possess sawed-off shotguns was a default judgment based on the non-appearance of defendants. *Miller* stands for the proposition that the people, in their capacity as individuals, could keep and bear arms appropriate for militia use.

Mr. President, we must equate the same status to the second amendment that has been given to other freedoms contained in the Bill of Rights. It is the second amendment that gives life and force to our entire Constitution and establishes the relationship between a people and their governments at all levels. Freedom is still the issue.

## IMMIGRATION LAW REFORM

● Mr. HAYAKAWA. Mr. President, today I bring to the attention of the Senate an issue of great and growing concern to the citizens of our Nation and of particular concern to westerners. That concern is the existence of undocumented aliens in our society.

We have, by some estimates, from 3 to 6 millions illegal aliens in this country. Immigration, legal and illegal, from the Third World has never been higher. The forces behind this flow of humanity to our bountiful shores will only get stronger, and our ability to deal responsibly with the issue rests largely on our ability to understand the circumstances of and reasons for the flow of foreigners into our Nation.

We must come to grips with our acceptance and treatment of refugees from around the globe. We must gain some sense of control over our 2,000-mile border with Mexico.

It is, however, absolutely critical that we understand the situation before acting. I have studied the questions surrounding the flow of Mexican nationals into our Nation for several years and will, over the next few months, attempt to provide my colleagues with a greater understanding upon which we shall be able, in part, to determine the future of our Nation's immigration laws.

Unlike other political problems, there is no clear ideological division on these issues. There is no sharp "conservative" or "liberal" division. Moreover, immigration is a highly emotional issue involving ethnic and racial hopes, attitudes, and fears, which are not always clear or expressed. Immigration, in addition, involves emotions which are not easily compromised. It is no wonder then, that most experienced politicians see the immigration question as dangerous territory with serious short-run costs and no clear advantages. They avoid the problem despite the fact that public opinion polls repeatedly show that the overwhelming majority of Americans are greatly dissatisfied with our present immigration policy and want the Government to take action to solve the problem.

While I am in full agreement that something must be done, I am gravely concerned over the direction in which we might move. During the course of our discussions, I will concentrate my efforts on explaining the economic and social justification for continuing with a relatively free flow of Mexican nationals commuting into and out of our Nation. Undocumented temporary immigration has been going on for a long time. It results from fundamental structural characteristics of both United States and Mexican societies. Attempting to deal with the matter in a single stroke of congressional lawmaking would be disastrous. We must look at the big picture, of which the laws on our books relating to immigration are but a small part.

This is an international question. There can be no unilateral effort on the part of Congress or the administration which will responsibly address this matter. For too long we have dealt with Mexico like a big brother dealing with a weak sister. The arrogance must end.

The notion of racial and economic superiority must be put to rest. We have an outstanding opportunity to express our commitment to mutual understanding and support. As we look at the issues surrounding immigration law reform, I urge my colleagues to be open, to be sensitive to the needs of the Mexican people, and to be conscious of the historic social and economic ties which bind the great nations of Mexico and the United States.

At this point I request unanimous consent that the following article, "Illegal Aliens: Should the U.S. Put Out the Welcome Mat?" from the February 17, 1982, issue of the Christian Science Monitor be printed in the RECORD. The article provides us with an excellent review of the questions surrounding the issue of illegal aliens within our borders. I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ILLEGAL ALIENS: SHOULD U.S. PUT OUT WELCOME MAT?

(By Robert M. Press)

EL PASO, TEXAS.—Are aliens who work illegally inside US borders a net plus of minus for the United States?

The question lies at the heart of the national political debate over the issue of US Immigration policy.

The debate is taking place against the background of an 8.5 percent January unemployment rate in the US, meaning more than 9 million American citizens are out of work.

Involved in the debate are President Reagan, who has proposed legislation, including a plan to let some foreign workers enter legally; Congress, which is considering legislation, and millions of Americans, whose concern about the issue has been registered in national polls.

Also directly involved are the illegal (sometimes referred to as "undocumented") workers from various nations, primarily Mexico. Do such workers take jobs away from Americans and legal residents? Are undocumented workers a drain on government services, or do they pay more taxes than the cost of the benefits they receive?

The flow of illegal immigrants to the US actually has been tolerated for years by lack of an effective border-control policy. Many times in the past century the US has welcomed—even recruited—Mexican workers. The welcome usually has ended during tough economic times.

Today, with high unemployment, it is one of those tough times. So the President and members of Congress are calling for action to regain "control" of US borders.

But what kind of action is in the best interests of the nation? Even experts calling for closed borders generally say illegal aliens are only one part of the nation's unemployment problem. Other experts insist undocumented workers actually help provide more jobs for American citizens. They argue that some industries are kept afloat only by the use of illegals, who do work that Americans won't do. Were these industries to close, they say, Americans would lose jobs, too.

Sharp disagreement over the direction of US policy threatens to thwart efforts to take action in this election year. The challenge for US policymakers is to seek out scare "facts" and make informed decisions. A wide range of solutions have been offered. Among them: a tightly guarded, closed border, a wide-open border, a stepped-up worker plan, "amnesty" for illegals within US borders, and a national identification card system.

That reform is needed is clear. Border enforcement policies today are so ineffective that large numbers of workers enter the US illegally each year. Many do so here in El Paso, coming and going on a regular, round-trip basis.

Yet it is not illegal in the US to hire an illegal alien. Many employers are glad to hire them because they usually work hard—often for very low pay. President Reagan wants a law that would allow the levying of fines against employers who "knowingly" hire more than four persons who cannot show proof they have entered the country legally.

Doris M. Meissner, until recently the acting commissioner of the US Immigration and Naturalization Service (INS), voices another concern: "The existence of a large illegal migrant population within our border violates the basic concept that we are a nation under law, and this cannot be tolerated."

"Until the US debate is based on facts—not only the numbers [of illegal workers] but on their impact on communities, the debate will be solved strictly in terms of politics," adds Adolfo Aguilar Zinser, coordinator of the US-Mexican relations program at the Center for Economic and Social Studies of the Third World in Mexico City.

There is no consensus in the US on what the "facts" are or what to do about them. What follows is a summary of leading views, based on interviews with dozens of US and Mexican experts:

JOBS

"I don't know of any job that would not be filled by Americans if not filled by illegals." contends Rudolph Oswald, research director for the AFL-CIO.

Most analysts say that if undocumented workers were expelled from the US—a step the Reagan administration is not proposing—businesses using illegal labor would either fold, move to Mexico or another nation with cheaper labor, or be forced to raise wages.

The last option, says Mr. Oswald, would make the jobs attractive to American citizens. "I see no reason why wealthy people should wash their shirts in a laundry where wages are held down by illegals." he says.

(For example: One illegal alien, a Mexican arrested here in El Paso recently by the US Border Patrol, was found to be earning just $2 an hour from a US employer. The minimum wage in the United States is $3.35 an hour.

(Yet at a higher point on the pay scale are a smaller number of undocumented workers, such as Felipe, interviewed by this newspaper in the small central Mexican town of Coalcoman. He says he earns about $2.50 an hour in Mexico doing construction work; when he crosses the border illegally into the US, he earns about $11 an hour doing the same kind of labor.)

Marion F. Houston, a Department of Labor immigration specialist, agrees. She says that without illegal labor wages would "creep up" in surviving businesses and industries. This would make the jobs more attractive to minorities, especially teen-age blacks who may see these jobs as "dead end" with no opportunities to advance, and so often pass them up. But, she adds, it may take years before these wages rise to that point.

Most so-called "low status" jobs are already held by Americans, points out George W. Grayson, professor of Latin American politics at the College of William & Mary in Williamsburg, Va. With high unemployment, such jobs become even more attractive to Americans, he says.

But most experts, including the Labor Department's Dr. Houston, recognize that many industries are now dependent on the cheap labor of undocumented workers.

"There are very definitely industries which rely on them and would be seriously impaired without them." Sen. Alan K. Simpson (R) of Wyoming, chairman of the Senate subcommittee on immigration said in a recent interview while visiting Mexico City. President Reagan has recognized this US dependency, at least to a degree, in his proposal to allow 100,000 Mexican "guest workers" to enter the US legally over a two-year period.

Exactly how many undocumented workers hold jobs at the expense of US citizens?

Not many, says Wayne Cornelius, director of the program in US-Mexican Studies at the University of California at San Diego, who has studied the question for a decade.

"There is no hard, reliable evidence that there is a significant amount of direct displacement of American workers" by undocumented workers, says Dr. Cornelius. But, he adds, he does not know how many US citizens might be discouraged from seeking jobs because illegals are already filling them.

He and Dr. Grayson of William & Mary both cite a public opinion poll taken by the Los Angeles Times in 1981 showing that three out of four jobless citizens said they would apply for jobs paying between the minimum wage of $3.35 and $4.50.

But a study of jobs suddenly opened by the arrest of a number of undocumented workers in San Diego found that the vacancies were mostly filled not by Americans but by Mexicans with legal entry documents. (Not clear from the study is how much effort was made to recruit Americans.)

This study and other factors led professors Sidney Weintraub and Stanley R. Ross of the University of Texas at Austin to conclude in an article: "On balance, then, the weight of evidence militates against equating jobs held by illegals with jobs lost by US nationals."

The US actually may find itself looking for more workers from other countries in the years ahead, says Clark Reynolds, economics professor at Stanford University in Palo Alto, Calif.

If the US economy grows at only 1 to 2 percent a year between now and the year 2000, he calculates, there will be a need for "at least 5 million" workers above and beyond the numbers US citizens and legal immigrants will provide.

Although he agrees that undocumented workers do displace some US nationals, he says that they also save some jobs by keeping industries that depend on cheap labor alive. They create some new jobs for Americans by reason of their economic activity, he says.

SOCIAL COSTS

When Mexicans come to the US, they often pay social security and other taxes, even though they are working illegally. Some use public health facilities and send their children to public schools.

In its report on legal and illegal immigration, the House Select Committee on Population said in 1978: "Despite popular belief, illegal immigrants do not appear to be a heavy burden on government social service programs. Undocumented aliens appear to be more likely to pay taxes than to use tax-supported programs."

The report went on to say that studies of illegal immigrants estimate that less than 5 percent used food stamps, welfare, or supplemental security income. (Illegals are not eligible for these programs.) The number of illegals claiming unemployment insurance ranged from 2 to 17 percent of those studied.

Examining government records on some 580 illegal migrants in 1981, David North of the new Transcentury Foundation in Washington came to similar conclusions. He found that: (1) migrants and their employers paid more than $1 million into the Social Security Trust Fund and drew no benefits as of the date of the study; (2) they paid a small amount of income taxes and received a smaller amount of earned income tax credits; (3) one-third collected some unemployment insurance at a time of low unemployment—although the state (California) collected more unemployment insurance payments from their employers than it paid out in benefits.

But he also concluded that a program in Los Angeles County designed to screen out illegal migrants from welfare saved the county annually "tens of millions of dollars in benefits."

Although illegals appear in general to contribute more to federal and state programs than they get in return in benefits, they may be using local services in excess of any related payments for those services. Some officials in schools and hospitals in the Southwest, particularly, have complained that illegal aliens put an unfair burden on their services.

And there is another aspect to the social costs: The hidden issue of exploitation of and danger to undocumented workers. While some Mexican and US experts say the incidents of exploitation are not frequent, they can be severe.

Roger Conner of the Federation for American Immigration Reform calls illegal immigration "as vicious and pernicious an institution as we've had in this country since slavery." He would like all illegal—and legal—immigration stopped.

One example of exploitation of undocumented workers, says Professor Ross of the University of Texas, are the "outrageous" rents some illegals are forced to pay, often for rooms in bad condition. And there have been reports of some undocumented workers living in virtual "slavery" in various part of the country—afraid to break away from intimidating employers who pay them very little.

And there's also alleged harassment from government officials. One Mexican told this reporter that when he is in the US working illegally he hesitates to go to movies, sports events, or other gatherings involving Hispanics because he is afraid of being picked up by immigration officers.

Sometimes violence occurs. One Mexican said his brother, José Luis Madrigal, had been killed without cause in June 1972 by an Immigration and Natural Service officer in Idaho. An INS spokesman said a Border Patrol agent shot and killed the man after he knocked the agent down and attacked him with a club. An inquest determined the shooting was in "self-defense," the spokesman said.

PROPOSED SOLUTIONS

President Reagan has proposed a guest worker program, allowing foreign nationals a two-year stay in the U.S. In addition, he would grant amnesty to those living in the U.S. illegally prior to Jan. 1, 1980. These people would not be eligible for welfare, food stamps, unemployment compensation and some other government programs. Enforcement of the new policy would come from fines on employers found to have hired four or more undocumented workers (up to $1,000 per alien), if the workers were knowingly hired.

Laws already exist in some 12 states against hiring undocumented workers. But experts say the laws are not being enforced.

Under the proposed federal law, how would an employer know if an alien was legally in the US? Mr. Reagan would require any two of the following to be shown to the employer: a driver's license, social security

card, birth certificate, or selective service registration.

But critics of this idea say these documents could easily be forged. Senator Simpson has proposed that all Americans carry a counterfeit-proof identification card. Although this raises questions of invasion of privacy, many critics raise an even more immediate query: The documents used to obtain the counterfeit-proof identification card could be forged.

An example: One Border Patrol officer here was surprised to find that a copy of his birth certificate was requested by—and sent to—people in three locations in Texas without his knowledge. With the birth certificate, a Border Patrol intelligence agent here says, it would be easy for whoever requested the certificate to obtain a driver's license or even a US passport in the officer's name.

Several analysts call the 50,000 per year limit on the two-year proposed "guest worker" program "a joke" because it is so small compared to the numbers coming in illegally now from Mexico.

But Border Patrol officials here say they would welcome fines on employers as a way to get at least some of them to cooperate. Many employers now hide their illegal employees during Border Patrol raids or claim they did not know the employees were undocumented.

Other solutions being discussed:

Closing the borders, something most analysts say is impossible, short of a massive, 24-hour military presence.

A larger "guest worker" program—perhaps 500,000 or so.

An open border. One State Department official says this is his favorite option but one politically not acceptable in the US. One professor suggests an open border would drain the poverty of Latin America into the US.

Allow US and Mexican labor unions to meet and decide how many Mexican workers are needed in the US. This idea, offered by Mexican sociologist Jorge Bustamante, seems outrageous at first, he admits. But he says its merit is that it wins the cooperation of the unions instead of their opposition.

An "overlapping border." This, says Ellwyn R. Stoddard, sociologist at the University of Texas at El Paso, would allow free movement of people within a zone along the border. Border cities on both sides are poor and already depend on each other; why not legalize what is already happening to a large degree, he asks?

Encourage Mexico to put more of its oil wealth into labor-intensive industries to provide more jobs, reducing the need to migrate to the US for work.

Senator Simpson sees the guest-worker program as a transition down to fewer and fewer Mexicans coming across legally. President Reagan apparently sees it as the beginning of a much larger program, bringing to mind the Bracero program that ended in the mid-1960s.

This kind of disagreement and the complexities of immigration issues—issues the US Congress has studied at length—may result in no action at all in this election year.

"We may well be condemned to the status quo," says Dr. Cornelius of the University of California at San Diego.

But the improbability of immediate action could provide the US and Mexico an opportunity to begin discussing the issue in detail—something they are not doing, say analysts. Mexican leaders apparently see this as a poor time to negotiate the issue, given the high unemployment north of the border. But Mexican cooperation is needed to maximize the effectiveness of any US immigration policy.

## JAPANESE TRADE AND DEFENSE

Mr. HAYAKAWA. Mr. President, as the chairman of the East Asian and Pacific Affairs Subcommittee, I have been very concerned about our relationship with Japan, both in terms of trade and defense. In the area of trade, it is well known that the United States maintains a growing bilateral deficit totaling $18 billion last year and projected to reach $25 billion this year. At the same time, Japan has devoted less than 1 percent of its gross national product to defense, while we consider 5 percent to be inadequate. Thus, Japan has been enjoying not only the strategic protection of U.S. Armed Forces, but a free and open market for its goods in the United States, while providing neither to us.

It is clear that a glaring inequity exists in the relationship between our two nations. However, the drastic methods of reversing these inequities that some have proposed may seriously undermine the foundation of our relationship. The notion of reciprocity in bilateral trade is nothing short of protectionism. We must encourage the Japanese to open their markets, rather than imposing restrictions on our own. Further, American demands of specific monetary commitments for defense by the Japanese fails to address their needs and cultural circumstances. I agree that action needs to be taken, but I am very concerned that such action be mutually beneficial and agreeable.

I ask unanimous consent that two articles appearing in the Washington Post on this subject be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RECIPROCITY IS MISGUIDED PROTECTIONISM

(By Hobart Rowen)

Probably no businessman is as familiar with the United States and Japan as Akio Morita, chairman of the Sony Corp., who spends almost as much time managing his world-wide enterprise from New York as from Tokyo. Therefore, when Morita says, as he did to a small group of influential American and Japanese opinion-makers here the other day, that Japan resents American "high-handedness," they all sat up and paid attention.

Morita said that the persistent pressure from the United States (and from Europe) to "make more concessions" so as to reduce the Japanese trade surplus is becoming oppressive. "Instead of treating Japan as a friend, the U.S. and Europe are ganging up on Japan . . . treating [us] almost as an enemy."

He conceded that "fair criticism" could be made of Japan's failure to abandon import quotas on tobacco and other agricultural products, and certain annoying nontariff customs and other barriers.

"But I think Americans are too wrapped up in their own economic difficulties and frustrations to think about the impact of what they are saying and doing to their allies. This is causing a lot of trouble, not just in Japan, but also in Europe, and it is eroding the very fabric of the free world."

These are tough words, reflecting the bitter assessment in Japan that it is taking a bum rap for the inability of American industry to compete. The Suzuki government, always anxious to avoid a public confrontation with Washington, would rather that Morita had remained silent, I am told. But Morita was accurately reflecting the opinion of his peers. American companies exhibit a lack of competitiveness, a weakness that is exacerbated by a Reagan economic policy mix producing an overvalued dollar.

But there is equal bitterness here, and the Japanese have been slow in assessing it. Yale Prof. Hugh Patrick, commenting on a round of talks with U.S. congressional leaders, observed: "When the 'friendlies' are as unfriendly as they are, you have to worry about the 'unfriendlies.' There is increasing frustration [about the huge Japanese trade surplus] and it will get worse instead of better."

A recent report by Rep. Sam Gibbons' (D-Fla.) House Ways and Means subcommittee on trade bluntly warned Japan that its "societal" disinterest in imports "is bringing out the anger of all the rest of the world." It cited a uniform criticism of Japan in Southeast Asia that "Japan is an unfair trader . . . the Japanese simply do not want to import."

The American bilateral trade deficit with Japan last year was about $18 billion, and could hit $25 billion this year. Never mind that comparing bilateral trade balances can give a distorted view of world economic relationships. The United States, for example, has a sizeable bilateral surplus with Europe, and surely would resist European demands that we make "concessions" to reduce the surplus.

And never mind that the United States enjoys a huge world-wide surplus on its sales of services—$36 billion in 1980, while Japan had a services deficit of $11.3 billion. The hard political fact is that there is a high visibility to the trade imbalance, and that gets translated into "lost" jobs—as in the auto industry—and ultimately into pressure on Congress to "do something."

As unemployment rises, and the United States sinks deeper into the economic morass as Morita so well described, nothing is more easily nurtured than a protectionist attitude. The buzzword on Capitol Hill today is "reciprocity"—bilateral reciprocity, that is—a principle according to which the U.S. government should take steps to assure that American businesses have the same access to overseas markets that foreign firms enjoy in trading with the United States.

If the United States were to put conditions on success to its market, in a transparent effort to block Japanese imports here, it would run counter to traditional American reliance on the "Most Favored Nation" principle, according to which a nation must treat all others equally in its own market.

The case against reciprocity legislation was brilliantly made in a Washington Post op-ed page article on Feb. 11 by Brookings Institute scholar Philip Trezise. Trezise is also a director of an American-owned subsidiary of the Bank of Tokyo.

Reciprocity is merely a back-door approach to protectionism. Yet, the Reagan

administration, theoretically committed to free trade, displays a great ambivalence. Officials say they are uncertain of what Congress intends, that they would not endorse the language of any bill in advance, and that they want to be absolutely certain that reciprocity does not deteriorate into protectionism.

Yet, it's abundantly clear that president Reagan's two chief trade policy spokesmen-Ambassador Bill Brock and Commerce secretary Malcolm Baldrige are in fact using the congressional drive for reciprocity as a lever to force Japan to open its markets wider. They are supported, as well by key State Department officals.

Baldrige, worried that American high technology industries that used to excel are losing their competitive edge, seems more ready than Brock to twist Japanese arms with the reciprocity idea. He claims, for example, that Japanese producers have picked up 70 percent of the market for the 64K RAMs a state-of-the-art-mico-chip memory, by slashing prices "to the point where they are driving the U.S. out of the market."

It's doubtful that Baldrige can back up that claim. For example, Edson Spencer chairman of Honeywell Inc., one of the major buyer of 64K RAMs suggests that the Japanese have taken the lead in this microchip not because of price, but because "the Americans got there late."

Spencer says that Honeywell has three suppliers of 64k RAMs, all Japanese, because American producers don't yet have 64K RAMs for sale. In the next few months. Spencer says some U.S. producers will be offering 64K RAMs, "and everything else being equal we'd like to do some business with them." That means, Spencer told me, that they will have to meet Japanese standards of quality as well as price.

The president's Cabinet Council on Trade and Commerce has undertaken a study of American hi-tech industries and what their competitive problems are. This study will take three or four months to complete. Undersecretary of Commerce Lionel Olmer, who has a large role in the Cabinet study, is convinced the situation is serious—that the more important an industry is to the U.S. economy at large, the greater the loss of U.S. competitiveness. He's thinking of semiconductors, steel and robotics, among others.

The danger is that the frustrated American response to the Japanese success—in these new fields, as well as autos and consumer electronics—will be to drift into "reciprocity" legislation as a painful necessity, denying at the same time, that it is protectionism by another name.

Slow economic growth in the industrial free world is working against free trade. Even if Japan abandons all of its trade restrictions, and makes access to its markets easy instead of difficult, it is likely to continue to be major exporter of goods, with a hefty surplus. As the U.S. economy continues to shift away from goods and toward services, it should continue to enjoy surpluses on services exports.

It will take a great deal of effort on the part of both Japan and the United States, the two economic giants of the free world, to defeat the internal forces for protectionism within each country, Japan could allay some of the bitterness here by contributing more funds to worldwide economic development, and also by picking up a greater share of its own defense costs. The United States, for its part, will have to be more honest about its own shortcomings, modernizing the economy, stressing producitivity, and reborrowing the labor-management techniques that Japan wisely adapted from the United States in the 1950s.

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### Let Japan Find its Own Way To Bear a Fair Share of Defense

(By James Webb)

The word is out: Iwo Jima is going to be a base again. A Japanese base.

It burns in our memories like a pure flame from a simpler if bloody past, that small island one-third the size of Manhattan which played host to the mutual slaughter of Americans and Japanese, the costliest battle in terms of time and property of World War II: 21,000 Japanese defenders dead, 25,000 Marine Corps casualties in little more than a month, for the ownership of an isolated pock of ash and weeds 5 miles long and 2 wide. It was the most real repository of heroism, a place where Fleet Adm. Chester Nimitz could reflect that "uncommon valor was a common virtue" among American fighting men, a scarred island whose cracked earth breathed sulfur fumes as if its insides had gone wheezing and rotten, and whose topography provided perhaps the most inspirational military pose a camera has ever caught, transferred into a statue that has become a shrine, Iwo Jima. We paid for it, every bloody square inch, with the agony of dying men and the undying tears of those they loved, for the good of democracy and all things Amercan.

And now if you stand on the invasion beach and stare up toward the bald height of Mount Suribachi, chances are your view will be obstructed by yellow Japanese tractors that scoop away the loose black sand so that cargo ships can unload. And if you climb the steep hill and peer down its backside you will see earth movers gouging out dirt to use for fill as they expand the runway—Japanese earth movers, building up a runway that will soon, if plans go through, house Japanese aircraft—fighters, antisubmarine patrol planes and helicopters.

The remilitarization of Iwo Jima will no doubt cause strong emotions to flow among many Americans, just as the return of the island to Japanese dominion did 13 years ago. And, in many ways, the prospect of Japanese combat forces there provides a metaphor for the ambivalence which we and the Japanese themselves feel about the thought of a rearmed Japan. On the one hand, it has become evident that the imbalance in defense responsibilities between our two countries must be remedied, or at least adjusted. On the other, it is not clear what missions Japan should be allowed, or forced, to perform. And at the bottom of it all is an underlying tension, a question of whether and in what manner the United States should intrude into the internal affairs of a country which has grown in the last three decades from its protected child into its greatest economic competitor.

It is often stated—correctly—that the Japanese are getting a free ride in defense matters, having allowed their economy to burgeon without paying the price of protecting their trade routes. The Japanese have spent less than 1 percent of their gross national product on defense since the late 1960s, while the United States has spent between 6 and 10 percent of its GNP on defense during this period. The average American taxpayer spends $759 a year on defense; the average Japanese, $98.

The Japanese military consists of a localized "self-defense force" (JSDF) whose combined air, maritime and ground components total scarcely a quarter million men. The JSDF plays no regional defense roles, and in fact rarely ventures outside the contiguous waters of Japan. With the most productive shipyards in the world and a merchant fleet that dwarfs our own, Japan has a minuscule, coastal defense navy whose entire tonnage is less than that of three American aircraft carriers, and whose principal combat ships are 48 small destroyers and 14 submarines.

The Japanese compete with us in markets throughout the world, moving their goods along trade routes which we protect with an overworked and beleaguered Navy. They rely totally on the United States for the protection of their Persian Gulf oil supplies, which provide 80 percent of their petroleum needs and only 7 percent of our own. They trade freely with the communist nations due to the calm which our presence provides: $10 billion in two-way trade with China last year, and a mind-boggling relationship with North Korea that has made Japan its principal free world trade partner, its "trade lifeline" with the non-communist, world, even as we maintain 38,000 combat troops in South Korea, partially to ensure Japan's security from the advances of those same North Koreans.

Free from the cost of maintaining a military commensurate with its economic power, Japan has enjoyed a consistent and substantial bilateral trade surplus with the United States that drains our economy—$18 billion last year alone—and is investing heavily on the American mainland. The evidence is persuasive that Japan will grow stronger; its own government's Economic Council recently predicted that by the end of this century their per capita gross national product will have substantially topped ours, $21,510 to $17,600. And yet it suffers little of the economic drain from defense expenditures which has traditionally been the price a nation has had to pay in order to engage heavily in international trade.

Except in the narrowest sense of self-defense, our armed forces *are* the Japanese military, incurring all its international security obligations in addition to our own. Some 46,000 Americans are stationed on Japanese soil, more than in any foreign country except West Germany, and many of the 25,000 deployed personnel of the Seventh Fleet are often in nearby waters. Nine U.S. Navy ships are "permanently forward deployed" in Japanese ports. The 3rd Marine Division operates out of Okinawa, as does the Air Force's 313th Air Division.

In many cases, American and Japanese security burdens overlap. However, Japanese opinion, both government and public, seems to have been that in *all* cases they overlap, so that American defense of Japanese security interests is simply incidental to our own strategic responsibilities. For example, it is true that Japanese oil tankers are secure in their Persian Gulf journeys because of the presence of the American fleet, which has stabilized the region for reasons related to American security. What is not clear to the Japanese is that their Persian Gulf sources either would dry up or be suffered at the hands of the communist nations should the Americans cease providing this protection. Since that prospect is unthinkable from an American perspective, and since its results would signal a total realignment of world power, the cost to the United States is not regarded as a Japanese problem. In fact, the clearest public sentiment in Japan over at least the past decade has been toward a

nonmilitary centrism, and equidistance from the United States, China and the Soviet Union.

The Soviet invasion of Afghanistan and its threats to Poland, coupled with the unrelenting growth of the Soviet Navy, have awakened the perceptions of many Japanese regarding Soviet intentions in the world. Nonetheless, the Japanese logic regarding such dangers is in effect to kill a potential enemy with kindness rather than to confront him militarily, to make him so economically dependent on Japanese goods and services that he will want to foster good relations.

A recent poll conducted by the Japanese newspaper Asahi Shimbun showed 70 percent of the country taking a negative stand against the very modest Japanese military buildup now being proposed by the ruling Liberal Democratic Party. Some of this negativism can be passed off as economic self-interest. The rest of it should be construed as genuine revulsion toward a militarism that caused 2 million Japanese to perish on the battlefield in World War II—five times the combat deaths from a country half as large as the United States—with the resulting destruction not only of the Japanese Empire but of much of the homeland itself. Either way, the point is clear; Japan now is secure, and has accomplished many of the economic aims for which it once went to war. Strengthening its military forces seems unnecessary and provocative to many Japanese.

Against such a backdrop, and in light of the Japanese government's tendency to seek harmony in its policies rather than indulging in the confrontation process so familiar to the United States political system, the recent 7.754 percent increase in the Japanese defense budget during a period of austerity, accompanied by the many official statements regarding Japan's moral debt to the United States military for its present economic well being, should be regarded as major steps toward a larger role by Japan in the defense of the Pacific region. Toward this end, defense experts from Japan and the United States have been meeting regularly for the past year in an effort to redefine mutual security obligations, focusing on roles and missions performed by the two countries.

Adjustments will not come easily. The Soviet Union has already criticized Japan's "militarization" during talks between the two countries. The Japanese Socialist Party, which is the major opposition party, is combining with other opposition parties to campaign not for military increases but for disarmament, and hopes to collect 10 million signatures during February to support its cause. Others will invoke the provision contained in Article IX of the Japanese Constitution in which the Japanese people forever renounce war, and state that "land, sea and air forces, as well as other war potential, will never be maintained."

The countries of eastern Asia, all of whom were occupied by Japan prior to 1943 and suffered under the cruel whip of Japanese militarism, will react with genuine fear (one clear example of the depth of these feelings comes from South Korea, whose people recently voted Japan the country they feared most, except for North Korea-ahead even of the Soviets).

Such dissent is answerable. First, the Soviets and the opposition can be expected to react negatively. Second, the famous "no-war" provision of Japan's Constitution was foisted upon the country in more idealistic times, and was interpreted in 1959 by the Japanese Supreme Court to allow Japan the inherent right of self-defense. Additionally, as early as 1951, the Japanese stated in the preamble to the first mutual security treaty their expectation "that Japan will increasingly assume responsibility for its own defense against direct and indirect invasion." This language was adopted after U.S. negotiator John Foster Dulles had urged the Japanese to undertake an active regional defense role, and then accepted Japan's assertain that it was too spirtually and economically weak at that time to do so.

Finally, the other countries of Asia, all of whom deal economically with the Japanese and many of whom house Japanese industry, should concern themselves more with the present than the past. Forty years ago, when the Japanese dominated eastern Asia, the Soviet Union did not even have a Navy. Today its fleet outnumbers the United States fleet by 200 ships, and by 1990 it is expected to be operating at least five carrier-centered battle groups. The United States needs help, and Japan is capable of giving it.

What form that help should take, in the long run, is subject to legitimate debate. The options range from full militarization, on the one hand, to a flat payment by Japan for the U.S. protection of its commerce outside Japanese contiguous waters.

There already have been stirrings in the U.S. Congress, prompted by the trade imbalance between our two countries. Sen. Jesse Helms of North Carolina has called for renegotiation of the mutual security treaty, with Japan assuming new responsibilities. Rep. Clement Zablocki of Wisconsin has introduce a joint resolution which would require Japan to spend a full 1 percent of its GNP on defense, and is said to have the full interest of Sen. John Glenn of Ohio.

In a unique approach, Rep. Steven Neal of North Carolina recently introduced a "security tax" resolution, calling for Japan to pay the United States 2 percent of its GNP for the protection we provide it. Although the measure has attracted little attention among his colleagues, it has caused more than a dozen Japanese press and government officials to make their way to his office in the last three months, evidence of how closely the Japanese are following the American perspective on this issue.

But the greatest mistake Americans could make would be to attempt to publicly dictate terms to the Japanese, or to give the impression that we believe we have the right to control the internal policies of the Japanese government. The crushed, demonstrating dependency of 1946 has grown up and it has reassumed its role as a dominant force in Asia. It should be remembered that the Japanese government's cooperation on defense matters seems to stem more from a desire to demonstrate its good will as a responsible economic partner than it does from a truly perceived threat. The wrong sort of American pressure while its government is attempting to develop consensus among a citizenry leaning strongly toward centrism could boomerang badly, no matter how well intentioned our policy makers.

Now should it be forgotten that the very thought of large complements of Japanese soldiers bearing guns, piloting aircraft and commanding warships somehow rankles Americans, terrifies Asians and genuinely perturbs most Japanese themselves. It is a safe bet that the reappearance of Japanese combat forces of any scale on the terrain they so harshly controlled prior to 1945 would cause emotional repercussions that could unsettle Asia.

For these reasons, the task of American opinion makers and officials should not be to decide whether or under what conditions Japan should rearm, but rather to clarify to the Japanese what our own deficiencies are, and to pressure them to think creatively about complementary solutions.

For perhaps the first time, they seem to be convinced we are serious about their contribution to the regional security of Pacific Asia, and are devoting much energy to a solution.

They were smart enough to keep us in this situation for 30 years. Who knows? As the recent proposal to provide $10 billion in aid to this country suggests, Japan may now have the most innovative way to get us out of it.

## TRIBUTE TO EDGAR F. KAISER

Mr. PERCY. Mr. President, on December 11 of last year, Edgar Kaiser, a long time and cherished friend, chairman emeritus and honorary director of Kaiser Aluminum and Chemical Corp., died in San Francisco after a long illness. In the 73 years of his remarkable lifetime, his contributions to public service were immeasurable.

His career was devoted to the continuation of his father's work as chairman of the Kaiser family of corporations. But he also found the time to develop a deep and abiding interest in health care and housing, and to serve four Presidents of the United States with distinction. He was an inspiration to those who knew him and, I hope, to the generations to come who will read of his integrity, vision, and leadership, and seek to emulate those qualities.

Our sympathies go to his family and to his colleagues at the Kaiser Aluminum and Chemical Corp. It will be a long time, if ever, before anyone to equal Edgar Kaiser will come upon the scene.

Mr. President, I ask unanimous consent to have three brief pieces of biographical information about Edgar Kaiser printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTICE OF DEATH—EDGAR F. KAISER

We regret to advise that Edgar F. Kaiser died December 11, 1981, at U. C. Moffitt Hospital in San Francisco after a long illness. A press release has been distributed to the wires and to the major newspapers, radio and television stations. In addition to the press release, Cornell Maier issued the following separate statement:

"Edgar Kaiser was an international business statesman in the fullest most positive sense of the word. He saw, before many others did, the potential and the basic rightness in seeking to do business with the Third World and other non-traditional U.S. trading partners.

"Beyond this, Edgar Kaiser was a great teacher, one whose greatest interest was stimulating the interests and development of young people.

"We who knew, loved, and grew under him feel a tremendous loss. But immense though

it is, the loss is dwarfed by the lasting lessons he taught, the opportunities he provided, the people he developed, and the decency, caring and willingness to listen which he always demonstrated".

DEATH OF EDGAR F. KAISER

DEAR FELLOW EMPLOYEE: The death of Edgar Kaiser has deep meaning, not only to our company, but to our nation and the world as well. He was, in every sense of the word, an international business statesman.

But to us, he was even more than that. He was a close and dear friend, and a teacher whose greatest interest was stimulating the potential and growth of the individuals with whom he had contact.

Our company over the years has been the beneficiary of his integrity, his vision, and his leadership. He was unparalleled in his sensitivity and warmth.

We who knew, loved, and grew under him feel a tremendous loss. But immense though it is, his passing is dwarfed by the lasting lessons he taught, the opportunities he provided, the people he developed, and the decency, caring, and willingness to listen, which he always demonstrated.

We will miss him greatly.

CORNELL MAIER.

[From the Washington Post, Dec. 13, 1981]

INDUSTRIALIST EDGAR F. KAISER DIES

OAKLAND, CALIF.—Edgar F. Kaiser, 73, who guided the industrial empire founded by his father, Henry J. Kaiser, to global expansion, died Friday in a hospital in San Francisco. The cause of death was not reported.

He had been chairman emeritus and honorary director of Kaiser Aluminum & Chemical Corp. and of Kaiser Cement Corp. since December 1979. Before that he had served as chairman for about 20 years.

Mr. Kaiser and his father became interested in sponsoring new methods of organizing and providing medical care during the construction of the Bonneville Dam and at the Grand Coulee Dam where the son was project manager. A new type of prepaid medical care program was set up for workmen and their families. It was the forerunner of the 3.9 million-member Kaiser Permanente Medical Care Program.

The younger Mr. Kaiser was chairman emeritus of Kaiser Foundation Health Plan Inc. and Kaiser Foundation Hospitals, having served as chairman from 1968 through 1980.

He served four presidents. John F. Kennedy appointed him to the President's Missile Sites Labor Commission and to the President's Committee on Equal Employment Opportunity. Lyndon B. Johnson selected him to head the President's Committee on Urban Housing and to serve on his advisory committee on labor-management policy.

Gerald R. Ford appointed him to the President's Advisory Committee on Refugees and Jimmy Carter picked him for his advisory committee on national health insurance issues.

He received the Presidential Medal of Freedom in 1969 for his efforts to increase the availability of low and moderate income housing.

Mr. Kaiser was a native of Spokane, Wash. During World War II, he was general manager of three Kaiser shipyards in Portland, Ore.

Mr. Kaiser's survivors include his wife, Nina, three sons, Edgar Jr., Henry, and Kim, three daughters, Mrs. Franklin Stark, Mrs. Martin Drobac and Mrs. Wallace Gudgell, and 20 grandchildren. His first wife, Sue Mead, died in 1974.

## SRI LANKA

Mr. PERCY. Mr. President, Sri Lanka recently celebrated the 34th anniversary of its independence, and it is fitting that we take note of the progress made by this strategically located democracy.

The lovely island nation, formerly known as Ceylon, has held seven general elections since it obtained independence from Britain on February 4, 1948. Reflecting the vigor of the democratic processes, in six of these elections, the Government in power was defeated and there was a peaceful transition of power to the opposition. The voter turnout during the past 16 years has averaged over 80 percent, an example which the western countries could well emulate. Last year Sri Lanka marked another anniversary. It was 50 years since the granting in 1931 of the universal adult franchise.

Although, like many countries, Sri Lanka has had internal communal and economic problems, the strength of its democratic traditions and its commitment to economic improvement are cause for confidence. The Government has a program of balanced economic development and liberalized trade investment which is intended to improve the overall standard of living of all the communal groups.

Various programs to help meet the basic needs have helped improve the health, education, and food supplies for the people. The quality of life has been rated high, 83 on an international measurement scale of 100. The life expectancy is one of the highest in Asia, 64 years for males and 67 years for females. The death rate is 8.1 per 1,000 and the literacy rate is 88 percent.

The achievements have been reached although the country of 14.8 million is still poor, and many sectors of the economy still need development. The United National Party government of President J. R. Jayewardene, which came into power in 1977, has been making considerable progress with its program of attracting foreign investment to help improve the economy. On free trade zone has been parcelled out and a second is being created. The packet of tax and other incentives, including complete infrastructure facilities, has already had results. Forty manufacturing and exporting firms already are in operation and 16 others are in the process of building facilities. Also. 11 new foreign banks and credit companies have been given permission to operate in Sri Lanka on an offshore basis. The American firms include Chase Manhattan, Bank of America, Citibank, and American Express.

The State Department reports that massive development projects in hydroelectric power generation and irrigation have led to a boom in the construction industry. Real GNP growth rate since 1977 has been from 5 to 8 percent.

In the foreign policy area, Sri Lanka is committed to a policy of nonalinement. Relations with the United States have been friendly and close. The physical distance between the United States and Sri Lanka may be great, but we are close in our common commitments to democratic traditions and the future development of our people.

## CARIBBEAN BASIN INITIATIVE

Mr. HAYAKAWA. Mr. President, the Review and Outlook column of the February 26 edition of the Wall Street Journal presents a reasoned, balanced analysis of the present situation in Central America and an objective assessment of President Reagan's Caribbean basin initiative.

The article contends that the debate about the situation in Central America and the most effective American response has been muddied by leftist propaganda, invalid generalizations about the political and economic conditions in the region, and pronouncements of our liberal politicians who have become instant experts after quick trips to one or more of the countries. After outlining the recent political history of the several states, the column asserts "that there is no truly popular leftist uprising in the Caribbean basin" and that President Reagan is on the right track by providing Central Americans with weapons, training, and economic assistance with which to defend themselves, while at the same time discouraging the Cubans and the Russians from interfering. The article concludes that to abandon the President's moderate and measured approach would be to hasten the region's political and economic disintegration.

I recommend this perceptive article to my colleagues, and ask unanimous consent that it be printed in the RECORD. I wholeheartedly support the President's Caribbean basin policy, and hope that other Members will also.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE CARIBBEAN COURSE

President Reagan unveiled his Caribbean policy Wednesday, and, as with much he does, it was guided by optimism and positivism. Some would regard this as a defect, a failure to acknowledge impending defeat, a la Vietnam. We are not among those.

The U.S. debate about the Caribbean Basin, in particular the Central American shores of that basin, has become badly muddied. Propaganda always accompanies wars and there is a war being fought, at various levels of intensity, through most of Central America. It serves the purpose of the Soviet-Cuban assault on that region to have Americans believe that an indigenous peasant movement is trying to overthrow repressive right-wing regimes. As with all propaganda,

there is a seed of truth here, but the entire truth is something entirely different.

Let us take El Salvador to begin with. The coalition of leftist groups there that is making war against the government has never had much popular support. That's particularly true of the Communist Party, which dominates the coalition. They have refused to participate in the election scheduled for next month for an excellent reason: They would get very few votes. Instead, they enlisted left-wing groups outside the country to put pressure on the existing government to "negotiate" a "settlement."

This is a classical strategy: Once a guerrilla movement has been granted legitimacy it can proclaim itself the winner and set about to seize total control. That process is well-advanced in Nicaragua, where the Marxist-Leninist Sandinists have been steadily consolidating their hold since they came to power as part of a broad coalition in 1979. They could not win an election today and for that reason have not scheduled one.

U.S. policy under two administrations has been to support the existing Duarte government of El Salvador and to support its plan for elections. The fear that now arises in Washington is that the people of El Salvador, fed up with years of terrorism and destruction by the left, will vote in a right-wing regime, thus further polarizing and complicating that country's politics. The U.S. would then be faced with trying to persuade the rightists to broaden their political base by working in harmony with Mr. Duarte and his middle-left forces.

Guatemala, which is experiencing the burning and intimidation stages of guerrilla war, also has an election coming up next month. Guatemala is a place where the military has long played a central political role, so this will be one of those typical Latin army-supervised elections. But whoever wins will have at least some claim to legitimacy.

Honduras has just had a relatively free election. Costa Rica has been a democracy for years. But none of that means they have been free from the Cuban threat. Quite the contrary, both have seen increasing evidence of danger on their borders with Nicaragua as their neighbor has steadily expanded its military power. The Hondurans have witnessed a brutal Sandinist campaign across the border to relocate Miskito Indians to central concentration camps.

In short, what Mr. Reagan recognizes is that there is no truly popular leftist uprising in the Caribbean Basin. The Jamaicans, in a genuinely free vote, chucked out a leftist, Cuban-linked regime in 1980 by a massive vote. The Castro cadres are not loved or liked, even by most Nicaraguans, and, from all appearances, even by many in Cuba itself.

Mr. Reagan understands full well that the American people hate wars and war talk. His policy goal is to avoid military conflict with Cuba while at the same time discouraging the Cubans and Russians from continuing their Central American adventure. A key part of that policy is to help Central Americans defend themselves by giving them weapons and training.

The risk of ultimate conflict between the U.S. and Cuba has been increased by American politicians who have swallowed the left's propaganda and who demand that the President withdraw American support from President Duarte and force him into negotiations with the left. The latest converts to this dangerous idea were Congressmen Harkin of Iowa and Oberstar of Minnesota. And they, on their return from a quick trip to the region, won an approving nod from Speaker O'Neill. The Speaker, however, shifted the other way after Mr. Reagan's speech, so the direction of the wind is obviously an influence.

The one flaw in Mr. Reagan's policy is that, now that Castro is well-established in Central America, someone has to win the war on the ground. Nicaragua and Cuba are becoming stronger day by day. The other countries are weak. The U.S. policy is to try to help Central Americans themselves win it. That won't be easy but it is a moderate and measured approach, one that attempts to uphold democratic principles. There is certainly no argument to be made for abandoning it in favor of a cut and run approach that will hasten the region's political and economic disintegration.

## MARKETING ORDERS

Mr. HAYAKAWA. Mr. President, the February 1982 issue of Consumer Reports contains an article relating to agricultural marketing orders. The article is off-base and best ignored. However, I have received a letter from the National Council of Farmer Cooperatives in response to the article which deserves the attention of my colleagues.

As with a recent piece shown on the TV show "60 Minutes," Consumer Reports has attempted, by slanting the facts, speaking in generalities, and misrepresenting the nature and intent of marketing orders to create a story.

In my mind, the story to be told is one of successful industry self-regulation and promotion. This activity has brought the American consumer a plentiful supply of high quality and low-cost produce. Maintaining a plentiful supply of agricultural produce while maintaining agricultural incomes at a level which provides for a healthy farm sector is most difficult. Government is called on continually to stabilize the agricultural marketplace; we have responded primarily through legislation.

Our most recent effort, the 1981 farm bill, will cost the American taxpayers $11 billion over the next 4 years, only 2 percent of which will go to my home State of California. When placed alongside the programs of the farm bill, fruit and vegetable marketing orders show themselves to be sterling examples of market-oriented self-regulation with no cost to the Government and tremendous benefit to the consumer.

Understandably, the National Council of Farmer Cooperatives has taken offense at the media misrepresentations of marketing orders. I bring your attention to their response. And finally, I wish to commend the council for taking the time to set Consumer Reports straight.

The letter follows:

NATIONAL COUNCIL OF FARMER COOPERATIVES,
*Washington, D.C., February 22, 1982.*

IRWIN LANDAU,
*Editor, Consumer Reports,*
*Mount Vernon, N.Y.*

DEAR MR. LANDAU: Your February 1982 article, "What's a Marketing Order?" correctly noted that the Secretary of Agriculture, who is legally charged with representing long-term consumers' interests, must approve every action of marketing order committees. However, you failed to follow up and explore in depth this most critical aspect of these programs—namely, their role in assuring American consumers of a reliable, high-quality, relatively inexpensive source of food over a long period of time.

Congress enacted the Agricultural Marketing Agreement Act of 1937 with just that purpose in mind. Protecting farmers against the wild, extreme price fluctuations which are so unique to agriculture has been consistently viewed by Congress as the best means of maintaining the small business, so-called "family farm", operation which has provided our nation with the world's most generous, dependable and least costly sources of food.

The urgent need for governmental steps to help farmers achieve more orderly markets and more stable prices, in the U.S. as in all the world's industrial nations, grows out of the little understood nature of the food production-marketing system. Volume of output cannot be controlled by the farmer, as in industrial factories, not only because of highly variable weather but also because in the American system hundreds of thousands of production decisions are made by independent farmers in a fashion which is essentially uncoordinated if government assumes no role.

But the central problem which results from unpredictable food output arises from the fact that, beyond a certain level, people have little need, or "demand", for additional food. As a result, even a modest "oversupply" causes a sharp drop in price for the farmers' product. In a totally unrestricted market, the farmer who grows 20 percent more than normal, in a year when total supply is also 20 percent above the normal market need, usually finds his gross return decreased by as much as 20% (sometimes more)—an ironic negative reward for his good performance and his contribution to the national welfare.

Any comparison of farmers' incomes with others who contribute as much effort, capital investment, managerial talent and high risk, has long demonstrated that most farmers are substantially under-compensated in terms of monetary benefits. In many instances, farmers' rewards come largely from their sense of independence, dedication to the land and the satisfaction of being a part of nature's most elemental processes. Many farmers have little margin of profit to withstand the instability which arises from a totally "free" market environment. The challenge our government has faced for decades is to develop balanced programs which will give farmers some limited protection against such disasters not of their own making, while striving to maintain the tremendous productive benefits which result from our market-oriented system of strong individual incentives and independence.

The proper balance between unrestricted freedom for our food producers and the type and amount of government involvement which is necessary to maintain our system by protecting farmers from econom-

ic disaster is difficult to achieve—and is eternally changing. Many different programs have been developed, adjusted, sometimes discarded, for different commodities and at different times and places. The "farm problem", like other economic dilemmas, is always with us.

Marketing orders, which are a central element of government's tools to bring a desirable measure of market stability in order to assist dairy, fruit, vegetable and other specialty crop producers, have a long record of serving the public as well as farmers' interests. Your statement that the public interest is not represented in the design and administration of marketing orders is not correct. The U.S. Department of Agriculture has been clearly charged since the time of President Lincoln with representing the public as well as farmers' interests. Indeed, many farmers in recent years have expressed increasing concern that USDA sometimes has such strong concern for consumer issues that it fails to give due weight to farmers' needs.

Your statement that USDA does not exercise close scrutiny over marketing orders is also incorrect. In fact, the long and careful investigations which USDA normally carries out prior to approving special programs under these orders often cause delays which are very costly to the industry involved. As an example, because of the many months of USDA study which preceded approval of the marketing order reserve program for almonds, the farmer-owned California Almond Growers cooperative was unable to make commitments for substantial foreign market opportunities and suffered heavy financial losses as a consequence. Any implications that USDA approval is "automatic" is also incorrect. In your article, you in fact acknowledge the typically careful and thorough approach made by USDA in spending some 500 hours investigating charges that Mr. Pescosolido violated provisions of the citrus marketing order.

It is indeed a fact that marketing orders programs of "set-aside" or "flow-to-market" do keep prices up in the short run. Neither the public critics nor the researchers who have recently studied various orders in depth have shown that "undue price enhancement" has occurred over the long run. In fact, continuity of adequate supplies, at reasonable prices (food price increases in recent inflationary years are largely attributable to escalating costs of energy, labor and other production inputs) has been a remarkable accomplishment of our dairy and our fruit and vegetable sectors over the years.

Finally, the need for farmers to work together through their cooperatives and their marketing orders is as urgent today as in former years when production units were even smaller. Most of our food output comes from farmers who are still very small compared to buyers and sellers with whom they do business. Without self-help programs such as marketing orders and cooperatives, farmers are as much at the mercy of the market and the vagaries of nature as they were 45 years ago when the Agricultural Marketing Agreement Act of 1937 became law. These programs do not have the damaging effects of "monopolization", "price-fixing", or "legalized cartels", as you have indicated. Studies of the price history of products under marketing orders have repeatedly shown this to be true. That's quite understandable inasmuch as an individual food product can be easily substituted for, in case the price to the consumer gets out of line.

Congress has consistently recognized these long-term benefits to consumers. That has always been a central objective of the program. Only the natural human tendency of some shoppers to look only at the short term, plus distorted reports of how surplus products are disposed of, has created some misconceptions on the part of unsophisticated or biased interests. We're fortunate in the U.S. to be dealing with problems of surplus rather than scarcity. Failure to understand what enables the system to work efficiently could lead to an end to this abundance which we Americans take for granted.

Sincerely,

ROBERT N. HAMPTON,
*Vice President, Marketing and International Trade.*

## REGARDING THE ALLARD LOWENSTEIN CONGRESSIONAL SYMPOSIUM

Mr. DODD. Mr. President, it has been almost 2 years since the tragic death of Al Lowenstein, a man of great vision and courage, an inspiration to generations of young people, and one whom many of us serving in this body were privileged to call a dear friend. On March 12-14, many of Al's friends will gather in Washington to honor him in a way he would find most fitting—by participating in a symposium designed not just to remember the past, but more importantly to reflect upon the future of our country; to discover together how Al's vision of a just society can best be translated into wise public policy in an era of great change, both at home and abroad.

I am honored to be a cosponsor of the event, and I would urge all those who admired Al to attend the reception on Friday, March 14, from 5:30 to 8:30 p.m., in the Cannon Caucus Room (345 Cannon Building), and the symposium on Saturday, March 15 from 9 a.m. to 5:30 p.m., in the same location. Further information on these events can be obtained from the office of Representative DOUG WALGREN, 117 Cannon Building, (202) 225-2135.

## AMNESTY BY THE GOVERNMENT OF THE REPUBLIC OF KOREA

Mr. KENNEDY. Mr. President, I welcome the decision today by the Government of the Republic of Korea to release 68 political prisoners and to pardon or reduce sentences of almost 300 others, as part of a large amnesty to celebrate the first year in office of President Chun Doo-Hwan.

Included among those released are two persons imprisoned with former presidential candidate Kim Dae-Jung—his secretary Kim Chong-Wan and former National Assembly Member Ye Choon-Ho. The release of Kim Chong-Wan is especially welcome, since he was the victim only 2 months ago of torture at the hands of Kangnung prison officials.

Among those whose sentences were reduced was Kim Dae-Jung, from life imprisonment to 20 years. While it is a matter of some satisfaction that he and other Korean democratic leaders have had their sentences lowered, I continue to urge President Chun Doo-Hwan to release Mr. Kim and his fellow prisoners at the earliest possible date.

At the same time, I am seriously concerned about the heavy sentences, ranging from 4 years to life imprisonment, meted out last January 22, to 25 intellectuals, labor union leaders, and workers merely for having formed a reading circle, and about the failure to include in today's amnesty any of over 270 students who have been imprisoned in the past year for political offenses.

I strongly encourage the Government of the Republic of Korea to continue to move in the direction reflected by this latest amnesty, in contrast to that signified by the recent trial of these students and workers.

## MESSAGE FROM THE PRESIDENT

Message from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

## EXECUTIVE MESSAGE

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting a sundry nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

## ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 116

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

*To the Congress of the United States:*

In accordance with Section 11 of Public Law 89-670, I hereby transmit the 14th Annual Report of the Department of Transportation.

This report covers the activities of the Department of Transportation during fiscal year 1980 and precedes my term of office.

RONALD REAGAN.

THE WHITE HOUSE, *March 2, 1982.*

## MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 5:14 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5021. An act to extend the date for the submission to the Congress of the report of the Commission on Wartime Relocation and Internment of Civilians.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2788. A communication from the Secretary of Agriculture transmitting a draft of proposed legislation to recover certain costs of the Cotton Statistics and Estimates Act and the Tobacco Inspection Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2789. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on 1982 rescissions and deferrals; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-2790. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on three new deferrals of budget authority and revisions to eleven previously reported deferrals; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-2791. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, certain transfers of funds appropriated to the Department of Defense; to the Committee on Appropriations.

EC-2792. A communication from the Clerk of the United States Court of Claims transmitting, pursuant to law, a copy of the Court's judgment entered for the plaintiffs in the case of Lower Sioux Indian Community in Minnesota, et al. v. The United States, No. 363; to the Committee on Appropriations.

EC-2793. A communication from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, a report on several properties to be transferred to the Republic of Panama under the Panama Canal Treaty of 1977; to the Committee on Armed Services.

EC-2794. A communication from the Acting Deputy Assistant Secretary of Defense for Facilities, Environment, and Economic Adjustment transmitting, pursuant to law, a report on two construction projects to be undertaken for the Air Force Reserve; to the Committee on Armed Services.

EC-2795. A communication from the Acting Deputy Assistant Secretary of Defense for Facilities, Environment, and Economic Adjustment transmitting, pursuant to law, a report on three construction projects to be undertaken for the Naval Reserve; to the Committee on Armed Services.

EC-2796. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation authorizing supplemental appropriations for military construction for fiscal year 1982; to the Committee on Armed Services.

EC-2797. A communication from the Deputy Assistant Secretary of Defense for Facilities, Environment, and Economic Adjustment transmitting, pursuant to law, a report on a construction project to be undertaken by the Air Force Reserve; to the Committee on Armed Services.

EC-2798. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision to convert the keypunch function at the Fleet Material Support Office, Mechanicsburg, Pa., to performance under contract; to the Committee on Armed Services.

EC-2799. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision to convert the custodial services function at the Marine Corps Air Station, El Toro, Calif., to performance under contract; to the Committee on Armed Services.

EC-2800. A communication from the Deputy Assistant Secretary of Defense for Military Personnel and Force Management transmitting, pursuant to law, the annual report on officer responsibility pay; to the Committee on Armed Services.

EC-2801. A communication from the Secretary of the Army transmitting, pursuant to law, the 1981 annual report on contracts for military construction awarded without advertisement; to the Committee on Armed Services.

EC-2802. A communication from the Secretary of Commerce transmitting, pursuant to law, notice of extended and expanded export controls maintained for foreign policy purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-2803. A communication from the General Counsel of the Federal Emergency Management Agency transmitting a draft of proposed legislation to extend the Defense Production Act for an additional 5 years; to the Committee on Banking, Housing, and Urban Affairs.

EC-2804. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, notice of a Presidential determination to lease 16 T-37B aircraft to Pakistan; to the Committee on Armed Services.

EC-2805. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation authorizing supplemental appropriations for fiscal 1982 for procurement, research, development, test, evaluation, operation, and maintenance; to the Committee on Armed Services.

EC-2806. A communication from the Deputy Assistant Secretary of the Army for Installations and Housing transmitting, pursuant to law, the fiscal year 1981 annual report on architect-engineer contracts awarded to 10 A-E firms for military programs, work for foreign governments, and civil works; to the Committee on Armed Services.

EC-2807. A communication from the Chairman of the Securities and Exchange Commission transmitting proposed legislation to clarify the respective jurisdictions of the Securities and Exchange Commission and the Commodity Futures Trading Commission; to the Committee on Banking, Housing, and Urban Affairs.

EC-2808. A communication from the Chairman of the Board of Governors of the Federal Reserve System transmitting, pursuant to law, the seventh annual report of the Board under the Federal Trade Commission Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2809. A communication from the Secretary of Commerce transmitting a draft of proposed legislation to authorize appropriations for the Coast Guard for fiscal year 1983; to the Committee on Commerce, Science, and Transportation.

EC-2810. A communication from the Secretary of Transportation transmitting, pursuant to law, the report of Federal financial assistance for rehabilitation and improvement of the Nation's railroad system; to the Committee on Commerce, Science, and Transportation.

EC-2811. A communication from the Vice President of AMTRAK for Government Affairs transmitting, pursuant to law, the fiscal year 1981 financial statements for the National Railroad Passenger Corporation and the Corporation's legislative program for fiscal year 1983; to the Committee on Commerce, Science, and Transportation.

EC-2812. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the financial condition of railroads which have outstanding certificates under the Emergency Rail Services Act; to the Committee on Commerce, Science, and Transportation.

EC-2813. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to reduce the cost of two Department of Transportation pipeline safety advisory committees without adversely affecting the usefulness of those committees; to the Committee on Commerce, Science, and Transportation.

EC-2814. A communication from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers on board and the on-time performance of each train operated by the Corporation for the month of October 1981; to the Committee on Commerce, Science, and Transportation.

EC-2815. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "NASA Must Reconsider Operations Pricing Policy To Compensate For Cost Growth On The Space Transportation System"; to the Committee on Commerce, Science, and Transportation.

EC-2816. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Alaska Railroad: Federal Role Should End; Some Management Problems Remain"; to the Committee on Commerce, Science, and Transportation.

EC-2817. A communication from the Assistant Secretary of the Interior for Land and Water Resources, transmitting, pursuant to law, an application by the Ak-Chin Farms, Pinal County, Arizona, for a loan under the Small Reclamations Projects Act; to the Committee on Energy and Natural Resources.

EC-2818. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the achievements of the Innovation Grant Program of the Urban Park and Recreation Recovery Program; to the Committee on Energy and Natural Resources.

EC-2819. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, four proposed prospectuses for alter-

ations to federal buildings; to the Committee on Environment and Public Works.

EC-2820. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities for the third calendar quarter of 1981; to the Committee on Environment and Public Works.

EC-2821. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of a building project survey which identifies the need for the construction of a Federal office building in Chicago, Illinois; to the Committee on Environment and Public Works.

EC-2822. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Treasury Department and its Bureaus Can Better Plan For and Control Computer Resources"; to the Committee on Finance.

EC-2823. A communication from the Acting Assistant Secretary of State, Bureau of International Organization Affairs, transmitting, pursuant to law, reports received from the United Nations Joint Inspection Unit and the United Nations Board of Auditors; to the Committee on Foreign Relations.

EC-2824. A communication from the Attorney/Advisor of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States, in the sixty day period prior to February 23, 1982; to the Committee on Foreign Relations.

EC-2825. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the annual report on the condition and activities of the General Services Administration for calendar year 1981; to the Committee on Governmental Affairs.

EC-2826. A communication from the Executive Secretary of the National Mediation Board, transmitting, pursuant to law, a report on the activities of the Board under the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-2827. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report on the activities of the Board under the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-2828. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Federal Open Market Committee of the Federal Reserve System on activities under the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-2829. A communication from the Director of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, the annual report of the Office on activities under the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-2830. A communication from the Chairman of the Board of Governors of the Federal Reserve System transmitting, pursuant to law, the annual report of the Board's activities under the Freedom of Information Act; to the Committee on the Judiciary.

EC-2831. A communication from the Chairman of the Federal Mine Safety and Health Review Commission transmitting, pursuant to law, a report on the Commission's activities under the Freedom of Information Act in 1981; to the Committee on the Judiciary.

EC-2832. A communication from the Deputy Director of the C.I.A. for Administration transmitting, pursuant to law, a report on the Agency's activities for 1981 under the Freedom of Information Act; to the Committee on the Judiciary.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS (for Mr. THURMOND), from the Committee on the Judiciary, without amendment:

S.J. Res. 142. Joint resolution to authorize and request the President to issue a proclamation designating March 21, 1982, as "Afghanistan Day," a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces;

S.J. Res. 145. Joint resolution authorizing and requesting the President to proclaim "National Orchestra Week"; and

S.J. Res. 148. Joint resolution to proclaim March 18, 1982, as "National Agriculture Day."

By Mr. MATHIAS (for Mr. THURMOND), from the Committee on the Judiciary, without amendment:

S. Res. 266. A resolution to declare March 1, 1982, as "National Day of the Seal."

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S.J. Res. 154. Joint resolution expressing the sense of the Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the 38th meeting of the United Nations Commission on Human Rights at Geneva in February 1982.

By Mr. MATHIAS (for Mr. THURMOND), from the Committee on the Judiciary, with an amendment and an amendment to the title:

S.J. Res. 29. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with the first Sunday in June of each year as "National Garden Week."

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MATHIAS (for Mr. THURMOND), from the Committee on the Judiciary:

Leroy J. Contie, Jr., of Ohio, to be U.S. Circuit Judge for the Sixth Circuit;

Robert B. Krupansky, of Ohio, to be U.S. Circuit Judge for the Sixth Circuit;

John R. Gibson, of Missouri, to be U.S. Circuit Judge for the Eighth District;

Eugene F. Lynch, of California, to be U.S. District Judge for the Northern District of California;

Elizabeth A. Kovachevich, of Florida, to be U.S. District Judge for the Middle District of Florida;

Richard L. Cox, of Florida, to be U.S. marshal for the Middle District of Florida for the term of 4 years;

J. William Petro, of Ohio, to be U.S. attorney for the Northern District of Ohio for the term of 4 years;

Carlos J. Cruz, of Florida, to be U.S. marshal for the Southern District of Florida for the term of 4 years;

M. Clifton Nettles III, of Georgia, to be U.S. marshal for the Southern District of Georgia for the term of 4 years;

Eugene G. Liss, of New Jersey, to be U.S. marshal for the District of New Jersey, for the term of 4 years;

Rudolph G. Miller, of New Mexico, to be U.S. marshal for the district of New Mexico for the term of 4 years;

Gene G. Abdallah, of South Dakota, to be U.S. marshal for the District of South Dakota for the term of 4 years;

William J. Nettles, of Illinois, to be U.S. marshal for the Southern District of Illinois for the term of 4 years;

Basil S. Baker, of Texas, to be U.S. marshal for the Southern District of Texas for the term of 4 years; and

Mary Louise Smith, of Iowa, to be a Member of the Commission on Civil Rights.

By Mr. DOLE, from the Committee on Finance:

Veronica A. Haggart, of Virginia, to be a Member of the U.S. International Trade Commission for the remainder of the term expiring June 16, 1984.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROBERT C. BYRD:

S. 2151. A bill to amend the Internal Revenue Code of 1954 to include modifications to chlor-alkali electrolytic cells in credit for investment in certain depreciable property; to the Committee on Finance.

By Mr. HEFLIN:

S. 2152. A bill for the relief of Henry Ford Harrison; to the Committee on Finance.

By Mr. HATFIELD (by request):

S. 2153. A bill to provide for the distribution of Warm Springs judgment funds awarded in Docket 198 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. FORD (for himself and Mr. HUDDLESTON):

S. 2154. A bill to require the Secretary of Agriculture to convey a reversionary interest held by the United States in certain lands located in Christian County, Kentucky, to the Shy Flat Tabernacle Cemetery, Inc., Christian County, Kentucky; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KASTEN (for himself and Mr. MATTINGLY):

S. 2155. A bill to require a foreign country be declared to be in default before payments are made by the U.S. Government for loans owed by such country or credits which have been extended to such country which have been guaranteed or assured by agencies of the U.S. Government; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself and Mr. NICKLES):

S. 2156. A bill to amend title 5, United States Code, to authorize Federal agencies to utilize alternative work schedules for their employees when the use of such schedules will improve productivity or service to

the public and will be cost effective, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PERCY (for himself and Mr. DIXON):

S. 2157. A bill to provide for the establishment of the Illinois and Michigan Canal National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself, Mr. PELL, Mr. BOSCHWITZ, Mr. PACKWOOD, Mr. PRESSLER, Mr. GLENN and Mr. GOLDWATER):

S. 2158. A bill to amend title 23, United States Code, to authorize and direct the payment of an incentive grant for highway safety programs to any State in any fiscal year during which the statutes of the State include certain provisions relating to driving while intoxicated; to establish a national driver register, and for other purposes; to the Committee on Commerce, Science and Transportation.

By Mr. DANFORTH (for himself, Mr. PELL, and Mr. BOSCHWITZ):

S. 2159. A bill to amend the Bankruptcy Act to provide that judgment debts resulting from a liability which is based on driving while intoxicated shall not be discharged; to the Committee on the Judiciary.

By Mr. MITCHELL:

S. 2160. A bill to amend title 38, United States Code, to require the Secretary of Labor to make funds available to certain private nonprofit organizations to administer the disabled veterans' outreach program in certain States, and for other purposes; to the Committee on Veterans Affairs.

By Mr. GRASSLEY:

S. 2161. A bill to permit a married individual filing a joint return to deduct certain payments made to an individual retirement plan established for the benefit of a working spouse; to the Committee on Finance.

By Mr. PROXMIRE:

S. 2162. A bill to amend the Federal Financing Bank Act of 1973 to require that the receipts and disbursements of the Federal Financing Bank be included in the Federal budget, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL (for himself, Mr. BOSCHWITZ, Mr. BAUCUS, Mr. BRADLEY, Mr. CHILES, Mr. CRANSTON, Mr. D'AMATO, Mr. DIXON, Mr. DODD, Mr. DURENBERGER, Mr. EAGLETON, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. METZENBAUM, Mr. PERCY, Mr. MOYNIHAN, Mr. PRESSLER, Mr. RIEGLE, Mr. SARBANES, Mr. TSONGAS, Mr. WILLIAMS, and Mr. ZORINSKY):

S.J. Res. 154. Joint resolution expressing the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the 38th meeting of the United Nations Commission on Human Rights at Geneva in February 1982; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBERT C. BYRD:

S. Res. 329. A resolution relating to the housing industry; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ (for himself, Mr. PERCY, Mr. HATFIELD, Mr. QUAYLE, Mr. DOMENICI, Mr. EAST, Mr. MOYNIHAN, Mr. D'AMATO, Mr. RIEGLE, Mr. SARBANES, Mr. WILLIAMS, Mr. MURKOWSKI, Mr. HAYAKAWA, Mr. ROTH, Mr. INOUYE, Mr. LEVIN, Mr. KENNEDY, Mr. GARN, Mr. GRASSLEY, Mr. DODD, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. MATTINGLY, Mr. COHEN, Mr. HOLLINGS, Mr. MITCHELL, Mr. THURMOND, Mr. KASTEN, Mr. DANFORTH, and Mr. ROBERT C. BYRD):

S. Res. 330. A resolution on the imposition of martial law in Poland and the release of Lech Walesa; considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERT C. BYRD:

S. 2151. A bill to amend the Internal Revenue Code of 1954 to include modifications to chlor-alkali electrolytic cells in credit for investment in certain depreciable property; to the Committee on Finance.

(The remarks of Mr. ROBERT C. BYRD on this legislation appear earlier in today's RECORD.)

By Mr. HATFIELD (by request):

S. 2153. A bill to provide for the distribution of Warm Springs judgment funds awarded in Docket 198 before the Indian Claims Commission, and for other purposes; to the Select Committee on Indian Affairs.

PLAN FOR THE USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

● Mr. HATFIELD. Mr. President, I am today, at the request of the administration, introducing legislation to provide for the distribution of Warm Springs judgment funds awarded in Docket No. 198 before the Indian Claims Commission.

On October 17, 1973, the Indian Claims, Commission, in Docket No. 198, entered a final award of $1,225,000 in favor of the Confederated Tribes of the Warm Springs Reservation in Oregon. The award represented additional compensation for the cession of land under the Treaty of June 25, 1855 (12 Stat. 963), ratified March 8, 1859. Funds to cover the award were appropriated by the Act of January 3, 1974 (87 Stat. 1071).

On October 10, 1974, the Secretary of the Interior submitted to the Congress, under the provisions of the Indian Judgment Funds Act or October 19, 1973 (87 Stat 466), a plan to distribute the award. This plan was then the subject of extended litigation in the U.S. District Court for the District of Oregon (*Gold* v. *Confederated Tribes of the Warm Springs Reservation,* Civ. No. 75-1097) with the result that the Secretary was enjoined from distributing the funds under the plan. Instead, the Secretary was directed to submit legislation to the Congress to provide for distribution of these funds.

Mr. President, distribution of these funds is complicated by the fact that many of the members of the Confederated Tribes of the Warm Springs Reservation have participated in other judgment fund awards or in benefits made available through settlement legislation. The bill directs the Secretary of the Interior to prepare a roll of all members of the Confederated Tribes of the Warm Springs Reservation living on the date of enactment of this act, but would exclude from participation in the distribution of these funds any persons who have participated in the judgment under the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049), as amended (25 U.S.C. 70 et seq.), or in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), as amended (43 U.S.C. 1601 et seq.).

This bill is not agreed upon by all the members of the Confederated Tribes of the Warm Springs Reservation. It is my understanding that the Senate Select Committee on Indian Affairs will be holding hearings on this bill early in this session of Congress, at which time all interested parties will be able to express their views.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2153

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), or any other law, or any regulation of plan promulgated pursuant thereto, and the funds appropriated by the Act of January 3, 1974 (87 Stat. 1071), for the award to the Confederated Tribes of the Warm Springs Reservation in Docket 198 before the Indian Claims Commission, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as provided in this Act.

SEC. 2. The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall prepare a roll of all members of the Confederated Tribes of the Warm Springs Reservation who were born on or prior to and living on the date of the enactment of this Act, and who have not participated in the judgment awarded to the Malheur Paiutes under the provisions of the Act of August 20, 1964 (78 Stat. 563), or in any other judgments under the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049), as amended (25 U.S.C. 70 et seq.), or in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), as amended (43 U.S.C. 1601 et seq.). The Secretary shall promulgate rules and regulations governing enrollment procedures to effect this Act, including a deadline for filing enrollment applications. The determination of the Secretary regarding the

eligibility for enrollment of an applicant under this section shall be final.

SEC. 3. The Secretary shall distribute the funds referred to in the first section of this Act on a per capita basis, in amounts as equal as possible, to the individuals enrolled by the Secretary under section 2 of this Act. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such individuals.

SEC. 4. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for or the amount of assistance under the Social Security Act.●

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By Mr. FORD (for himself and Mr. HUDDLESTON):

S. 2154. A bill to require the Secretary of Agriculture to convey a reversionary interest held by the United States in certain lands located in Christian County, Ky., to the Shy Flat Tabernacle Cemetery, Inc., Christian County, Ky.; to the Committee on Agriculture, Nutrition, and Forestry.

TRANSFER OF CERTAIN LANDS IN KENTUCKY

Mr. FORD. Mr. President, today I am introducing, on behalf of Senator HUDDLESTON and myself, a bill that would direct the Secretary of Agriculture to convey, without consideration, to the Shy Flat Tabernacle Cemetery Inc., Christian County, Ky., a reversionary interest held by the United States in a 1.52-acre tract that had been transferred to the Commonwealth of Kentucky by the Secretary of Agriculture in 1954.

Among the many major legislative initiatives that have been introduced this session, this measure may seem to be inconsequential. However, it is a matter of no small concern to the members of the Shy Flat Tabernacle Church near Dawson Springs, Ky.

This church and its cemetery are over 100 years old. The church was built before 1880, and like many country churches, has a cemetery on its property for the burial of its members.

Now, however, the cemetery is running out of room. Since many living members of the church and others have relatives buried in the cemetery, they are interested in acquiring some land nearby.

The church and cemetery are located in the Pennyrile State Forest. The land on which the church would like to expand its cemetery was conveyed to the Commonwealth of Kentucky from the United States in 1954. For this property to be made available to the church, legislation in the form of what we have proposed will be required.

All adjoining land has been exhausted except that which is owned by the Commonwealth of Kentucky, with reversionary interests held by the U.S. Department of Agriculture. The Commonwealth of Kentucky has no objection to transfer of the tract, but first must be released from the reversionary interest.

The bottom line, Mr. President, is that the Federal Government has the chance to do a good turn for this church and its members and I hope that this bill can receive prompt and favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill, and a summary of the bill, be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2154

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Agriculture shall convey, without consideration, to Shy Flat Tabernacle Cemetery, Inc., Christian County, Kentucky, all right, title, and interest of the United States in and to 1.52 acres of land, more or less, a portion of the real property described as tract numbered 1314 in the quitclaim deed made by the United States, as grantor, to the Commonwealth of Kentucky, for the use and benefit of the Department of Conservation, dated July 9, 1954, recorded in Christian County, Kentucky, in deed book numbered 385, page 504, which the United States may hold as conditions contained in the quitclaim deed: *Provided,* That this conveyance in no way affects the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the deed: *Provided further,* That this conveyance is made so long as the lands are used exclusively for cemetery purposes by Shy Flat Tabernacle Cemetery, Inc., or their successors.

SEC. 2. The 1.52 acre tract described in section 1 lies on the west side of Kentucky Highway numbered 109, touching the Tabernacle Church and Cemetery on the west side, and is more particularly described as follows: Beginning at an iron pipe on the west side of an old road the same being the north east corner of the Tabernacle Cemetery property; thence, north 76 degrees 30 minutes east, and in line with the north side of the above mentioned cemetery 237.90 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, in line with the right-of-way line of the highway south 54 degrees 45 minutes east 292.80 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, south 78 degrees 00 minutes west and in line with the south side of the Tabernacle Cemetery property 384.60 feet to a concrete monument the same being the south east corner of the cemetery property; thence, north 25 degrees 30 minutes west and in line with the east side of said cemetery 211.03 feet to an iron pipe, the same being the place of the beginning.

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SUMMARY

The bill would direct the Secretary of Agriculture to convey, without consideration, to Shy Flat Tabernacle Cemetery, Inc., Christian County, Ky., a reversionary interest held by the United States in a 1.52-acre tract that had been transferred to the Commonwealth of Kentucky by the Secretary of Agriculture in 1954. The bill also provides that the land must be used exclusively for cemetery purposes by Shy Flat Tabernacle Cemetery, Inc., and their successors.

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By Mr. KASTEN:

S. 2155. A bill to require a foreign country to be declared to be in default before payments are made by the U.S. Government for loans owed by such country or credits which have been extended to such country which have been guaranteed or assured by agencies of the U.S. Government; to the Committee on Banking, Housing, and Urban Affairs.

FOREIGN DEBT LEGISLATION

Mr. KASTEN. Mr. President, 3 weeks ago, the Senate came within nine votes of acknowledging Polish default on loans from the West. That was only the opening shot in what will be a continuing battle to cut off credit to the Polish military regime, to Eastern-bloc countries, and indirectly, to the Soviet Union. Today I am introducing legislation to call in default any nation which fails to meet its financial obligations to the United States. Specifically, my bill would prohibit the Treasury or other Government corporations—such as the Commodity Credit Corporation—from paying on loan guarantees or agreements unless the borrowing country has officially been declared in default.

Mr. President, it is up to Congress to put backbone into our official reaction to martial law in Poland. Five thousand Poles have been detained without charge and without accounting. Martial law has been imposed, movement toward democracy has been crushed, and Stalinistic repression of the Polish people continues. The West has responded with a great deal of handwringing and a few ineffective trade sanctions.

Not only have we failed to take tough action on Poland, we are quietly bailing out the banks involved through an unusual, some say illegal, Commodity Credit Corporation procedure. The CCC plans to pay $71 million in February, and $876 million over the next 2 years, for Polish agricultural loans which are overdue to U.S. banks. The CCC's own rules and regulations require banks to first give a notice of default, which the Government must confirm, before any payment is made. These rules don't apply in the case of Poland.

Mr. President, for years, our trade and economic relationships with the Soviet-bloc countries have hardly been in our own best interest. The benefits of expanded trade with the West were supposed to be dependent upon Soviet good behavior. And the Soviet Union has certainly benefited by using its East European allies as a conduit for

Western goods and technology—essentially forcing those countries to absorb the hard currency debts that the Soviets would otherwise be forced to pick up. When Poland's debt payments were stretched out in April of last year, Western creditors included a so-called tank clause, calling for default in the event of exceptional circumstances such as internal repression. Now that these exceptional circumstances have occurred, and Poland has fallen behind in payments to almost all its Western creditors, the trade that was intended to bind East to West with hoops of gold is binding our own hands instead.

Last month, Romania became the second Soviet-bloc country to go into arrears on its debts to the United States. Faced with a last minute ultimatum from our State Department, Romania made a $5.8 million payment to the Commodity Credit Corporation, but private bankers confirm that Romania is behind by as much as $1 billion in payments to its Western creditors. The Eastern-bloc country is now attempting to arrange a limited rescheduling of its outstanding hard currency debt, believed to total between $10 and $14 billion. Some bankers predict that Hungary and East Germany will be the next Soviet-bloc countries to fall behind in payments to the West.

Administration officials argue that if we declare any of these countries in default, we would cause financial havoc in the rest of Eastern Europe, which in turn would rain havoc upon Western financial institutions and governments. The inference is incredible—that we must continue to prop up the military government of Poland and the rest of Eastern Europe in order to save our own financial system.

Our seeming paralysis on the question of default just underscores our credibility crisis abroad. U.S. threats to use the economic measures available to us—to deny the East the benefits of trade—no longer carry any weight. They are not credible to our adversaries or to our allies. A declaration of default would help restore that missing credibility.

A declaration of default would also aggravate the financial strains already apparent in the Soviet economy, and make it more difficult for the Russians to continue their unprecedented military buildup. Even though the Soviet gross national product is only 60 percent as large as ours, the Soviet investment in arms is much larger—exceeding U.S. investment by 80 to 90 percent during the last 5 years. As Under Secretary of Defense Fred C. Ikle testified before my Foreign Operations Appropriations Subcommittee, this buildup occurred during the period called détente, when East-West trade expanded and when the West supplied an estimated $80 billion in credits to Soviet-bloc countries. Mr. Ikle testified that—

> By propping up the economies of the Soviet empire with Western credits, we made it easier for the Soviet Union to finance its military buildup.

Secretary Ikle also stated that, if a Soviet-bloc country such as Poland is declared in default—

> The sky will not fall on the West. A limited but significant piece, though, may fall on the East. The pain in the West would be quite tolerable. It would be confined mainly to those financial institutions and traders who argued that we should extend a "carrot" to the East to induce good behavior, but who are now opposed to withdrawing this "carrot" when the behavior repeatedly is abominable.

American citizens are taxed twice for the Soviet military buildup: First, because the Soviet buildup necessitates an increase in our own defense budget, and a second time, when our Government subsidizes bad old loans and new loans to the Soviet bloc. It is time to put the financial responsibility for the Eastern-bloc nations back where it belongs—squarely on the Soviet Union.

As chairman of the Foreign Operations Appropriations Subcommittee, I intend to continue hearings on the issue of Soviet-bloc debt, and, if necesssary, to force a vote on default once again. Many years ago, Lenin predicted that capitalistic nations would fight amongst themselves to sell Russia the rope it would use to hang them. The alliance must not let itself become so intimidated by the implications of a credit cutoff that it proves him right.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2155

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no funds may be paid out of the Treasury of the United States or out of any fund of a government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to any foreign country, unless such country has been declared to be in default of its debt to such individual or corporation.

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S. 2156

By Mr. HATCH (for himself and Mr. NICKLES):

S. 2156. A bill to amend title 5, United States Code, to authorize Federal agencies to utilize alternative work schedules for their employees when the use of such schedules will improve productivity or service to the public and will be cost effective, and for other purposes to the Committee of Govermental Affairs.

ALTERNATIVE WORK SCHEDULES

Mr. HATCH. Mr. President, today I am introducing with the cosponsorship of Senator Nickles a bill to establish as a permanent program an experimental one created by the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Public Law 95-390.

Under the 1978 act, the Office of Personnel Management created and evaluated work schedules that vary from the traditional weekly schedule of 5 days of 8 hours each. These schedules were divided into two basic types: Flexible schedules, which widen the band of hours in a day within which an employee can perform his regular work; and compressed schedules, with daily hours fixed in advance by management, but with a weekly pattern different from that of the traditional schedule, such as 4 days of 10 hours each.

The experiment found that appropriately designed and controlled alternative work schedules are beneficial to agencies, employees, and the public. Alternative work schedules can improve the productivity of an organization or unit and increase its service to the public without adding to the cost of agency operations.

However, the study suggested the need for specific criteria that must be met in order to use an alternative work schedule, and for greater management control over the decision to begin or to terminate an alternative work schedule. Accordingly, the proposal allows alternative work schedules only when the head of the agency determines that their use would improve productivity or provide greater service to the public and not increase the cost of agency operations. In addition, compressed schedules could be used only if the agency head first obtains the approval of the Office of Personnel Management. Any alternative work schedule would have to be terminated immediately if the agency head or the Office of Personnel Management determines that it is no longer fulfilling the established criteria. The right would be reserved to management to decide not to begin an alternative work schedule, or to terminate such a schedule previously authorized. However, once the decision is made by management to allow or terminate an alternative work schedule, the normal labor-management provisions would apply.

The proposal directs the Office of Personnel Management to prescribe regulations defining the periods during which employees on alternative work schedules would be entitled to overtime pay and premium pay for working at night or on Sunday or a holiday, with the requirement that an

employee may not receive greater overtime or other premium pay as a result of electing the number of hours or times of day or week he works. Under this standard, as an example, an employee who chooses to work during night pay hours would not receive night pay solely as a result of that election, but would be able to receive night pay to the extent that such pay would have been provided under a regular work schedule. The premium pay provision would also allow the Office of Personnel Management to specify, for example, that overtime for a compressed schedule begins after the 10 hours scheduled for each of 4 days. For employees on alternative work schedules, these OPM regulations would supersede to the extent necessary the overtime provisions in title 5, United States Code, those in the Fair Labor Standards Act of 1938, as amended, certain provisions concerning pay for night, Sunday, or holiday work, and any other provision of law.

If an employee on a compressed schedule is relieved from work on a day due to a holiday, he would receive straight-time pay for the number of hours, such as 10, provided for that day by the compressed schedule.

Under the proposal, an employee could voluntarily work extra hours and use these credit hours at another time within the pay period or in a subsequent pay period. The carryover of credit hours to another pay period would generally be limited to 24 such hours, but under OPM regulations the carryover could be limited to fewer hours.

The proposal allows the participation of part-time employees by amending the definition of part-time employment in title 5, United States Code, to put on a biweekly rather than weekly basis the limitation on the number of hours worked in the case of alternative work schedules.

The proposal provides that, in administering the annual leave earning rate provision and certain other provisions that are defined in terms of workdays, the reference to a day means 8 hours in the case of employees under alternative work schedules. This provision insures, for example, that the rate at which annual leave is earned is kept the same for employees whose hours worked per day may differ from 8 hours. However, employees would be able to use their leave at the rate of their scheduled workday.

Finally, the proposal makes technical changes concerning the provision of title 5 that allows employees to take time off from their regular work schedule for religious reasons. This provision, which was originally enacted as a part of Public Law 95-390, would be moved to chapter 61 from chapter 55, reflecting that hours taken off for religious observance are more appropriately viewed as an adjustment to the work schedule that is offset by additional work, rather than as compensatory time off earned by working overtime. The provision would require that the additional work to offset the absence must be performed at times satisfactory to the agency.

I believe there is considerable merit in extending this program. The Office of Personnel Management has found that alternative work schedules can produce improvements in productivity, greater service to the public, and added savings in costs. Equally important, however, is the fact that workers have had a very positive experience with the concept of the flexitime and the compressed work week. Many people are coming into the work force today, especially women, who need flexible schedules. They are productive people, yet they are not able to work exactly the hours that have been regarded as traditional. Moreover, virtually every experimental program involving flexible work schedules has demonstrated significant improvements in the morale of employees. And there is greater job satisfaction.

Mr. President, the administration supports the continuation of the program. And this bill in fact reflects the administration's proposal. With the experimental program due to expire on March 31, 1982, I hope that the Congress can act swiftly on this matter.

At this point, I will set forth a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

The first section of the draft bill consists of amendments to title 5, United States Code. Subsection (a) of the first section consists of amendments to chapter 61 of title 5. Paragraph (1) adds a new section 6102 to chapter 61, entitled "Alternative work schedules."

Subsection (a) of new section 6102 provides definitions for the alternative work schedules program. "Agency" is defined as an Executive agency and a military department, thereby establishing the permissible coverage of this program. "Basic work requirement" means the number of hours in an employee's normal biweekly pay period. "Alternative work schedule" is defined as a work schedule which falls outside the traditional pattern of five fixed 8-hour days per week. "Compressed work schedule" is defined as a type of alternative work schedule under which a full-time employee would perform his 80 hours of work per pay period in less than 10 full workdays. "Credit hour" is defined as an extra hour which an employee works in order to be able to work an hour less at another time within the same pay period or in a subsequent pay period. The decision to work credit hours would be entirely voluntary, and coercion would not be permitted.

Subsection (b) of new section 6102 provides for the establishment and termination of alternative work schedules. Under paragraph (1), the head of an agency would be permitted to establish an alternative work schedule if he determined that it would improve productivity or provide greater service to the public, and would not add to the cost of agency operations. Paragraph (2) would direct the Office of Personnel Management to require an agency to obtain prior approval of the Office before using a compressed work schedule. Paragraph (3) would require either the head of the agency or the Office of Personnel Management to terminate any alternative work schedule that is not fulfilling the objectives set forth under paragraph (1).

Subsection (c) of new section 6102 would require the Office of Personnel Management to prescribe regulations governing the time when employees under alternative work schedules would receive overtime pay or other premium pay. These regulations, which would supersede the normal provisions of law on premium pay, would include provisions ensuring that employees under alternative work schedules would receive no more premium pay than they would receive if they were under a regular work schedule by reason of the hours or times they elect to work.

Subsection (d) would require the Office of Personnel Management to prescribe regulations governing the accumulation and use of credit hours. The regulations would include limits on the number of credit hours employees would be permitted to carry forward from one pay period to another. The regulations would not permit more than 24 hours to be carried forward.

Paragraph (2) of subsection (a) of the first section of the bill would replace the present section 6106 of title 5, prohibiting the use of time clocks in Executive departments in the District of Columbia, with an entirely different section 6106, concerning the adjustment of work schedules for religious observances. The prohibition on the use of time clocks was originally enacted in 1899, and applies only in Executive departments, and only within the District of Columbia. Removal of this provision would ensure that all agencies, including Executive departments, have the flexibility to use whatever type of time accounting system is most appropriate in a particular work setting, both for employees in alternative work schedules and for those on regular work schedules. The new section 6106 is very similar in substance to the present section 5550a of title 5, but would place this provision in a more logical place in title 5. In all cases, employees who choose to perform additional work in order to offset planned absences for religious purposes would be allowed to perform such additional work only at times satisfactory to the agency.

Paragraph (3) of subsection (a) would amend the analysis of chapter 61 to reflect the amendments made by paragraphs (1) and (2).

Subsection (b) of the first section of the bill would amend the definition of "part-time career employment" in section 3401 of title 5, to reflect the possibility of part-time employment under an alternative work schedule.

Subsection (c) of the first section of the bill would repeal section 5550a, now replaced by the new section 6106, and amend the analysis of chapter 55 accordingly.

Subsection (d) of the first section of the bill would amend section 7106(a)(2) of title 5 to add to the list of management rights under labor-management relations the exclusive management right not to authorize use of an alternative work schedule under the new section 6102, or to terminate the use of any such schedule previously authorized. While management would thus be able to refuse to allow an alternative work sched-

ule, any decision by management to institute such a schedule would be fully subject to normal labor-management processes.

Section 2(a) of the bill provides that the amendments made by the bill would be effective on March 29, 1982 (the termination date of the alternative work schedules experimental program under Public Law 95-390), or on the date of enactment, whichever is later.

Section 2(b) would require the head of an agency to review, within 90 days of the enactment of the bill, every alternative work schedule established under Public Law 95-390. If the head of the agency determines any such schedule is not fulfilling the objectives set forth in new section 6102(b)(1) of title 5, the schedule must be terminated.

I also ask unanimous consent to have the bill printed in the RECORD at this point:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2156

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) chapter 61 of title 5, United States Code, is amended by—

(1) inserting after section 6101 a new section 6102, as follows:

"§ 6102. Alternative work schedules

"(a) For the purpose of this section—

"(1) 'agency' means an Executive agency and a military department;

"(2) 'basic work requirement' means the number of hours, excluding overtime hours, which an employee is required to work or account for by leave or otherwise in a biweekly pay period.

"(3) 'alternative work schedule' means a work schedule under which an agency permits or requires an employee to fulfill his basic work requirement at hours different from the working hours that would be prescribed for the employee under section 6101(a)(2)-(3) of this title;

"(4) 'compressed work schedule' means an alternative work schedule under which the 80-hour basic work requirement for a full-time employee is scheduled to be performed in less than 10 full workdays; and

"(5) 'credit hour' means an hour which an agency permits an employee to work voluntarily in excess of the employee's basic work requirement in a pay period and which may be credited by the employee toward his basic work requirement in the same or a subsequent pay period.

"(b)(1) Notwithstanding the provisions of section 6101(a)(2)-(3) of this title, the head of an agency may, in accordance with the provisions of this section and regulations prescribed by the Office of Personnel Management, establish one or more alternative work schedules for use in the agency or in subordinate elements in the agency, if the head of the agency determines that the use of an alternative work schedule—

"(A) would improve productivity or provide greater service to the public; and

"(B) would not add to the cost of agency operations.

"(2) The Office of Personnel Management shall require that an agency obtain prior approval of the Office before authorizing use of a compressed work schedule.

"(3) Notwithstanding any other provision of law or negotiated agreement, any alternative work schedule that is found by the head of the agency or by the Office of Personnel Management to no longer be fulfilling the objectives set forth in paragraphs (1)(A)-(B) of this subsection shall be terminated immediately.

"(c) The Office of Personnel Management shall prescribe regulations governing the periods during which an employee under an alternative work schedule shall be entitled to overtime pay and premium pay for work at night or on Sunday or a holiday, and such regulations shall supersede, to the extent inconsistent therewith, the provisions of sections 5343(f), 5542(a), 5543(a)(1), 5544, 5545(a), 5546(a)-(b) and (d)-(e), and 5550 of this title, section 4107(e)(2)-(5) of title 38, section 7 of the Fair Labor Standards Act of 1938, as amended, or any other provision of law. The regulations prescribed by the Office under this subsection shall include provisions ensuring that an employee under an alternative work schedule does not, by reason of the times at which he elects to fulfill his basic work requirement, receive a greater amount of overtime pay or other premium pay than he would have received had he not been under an alternative work schedule.

"(d) The Office of Personnel Management shall prescribe regulations governing the accumulation and use of credit hours by employees under alternative work schedules. The regulations shall include limitations, not to exceed 24 hours, on the number of credit hours employees may be permitted to carry forward from one pay period to another.

"(e) In the case of an employee under an alternative work schedule, references to a day or workday (or to multiples or parts thereof) in sections 6303(a), 6304, 6307(a) and (c), 6323, 6326, and 8339(m) of this title shall be deemed to be references to 8 hours (or to the respective multiples or parts thereof).";

(2) amending section 6106 to read as follows:

"§6106. Adjustment of work schedules for religious observances

"(a) An employee whose personal religious beliefs require his abstention from work during certain periods of time may elect to perform work, at times satisfactory to his agency, in addition to his regularly scheduled tour of duty, and such additional work shall be credited by the agency to the employee to offset absences from work during the employee's regularly scheduled tour of duty, if such absences are due to the requirements of the employee's personal religious beliefs.

"(b) For the purpose of this section, 'agency' has the meaning given it in section 5541(1) of this title.

"(c) The Office of Personnel Management shall prescribe regulations governing the application of this section in Executive agencies and military departments, and the heads of other agencies subject to this section shall prescribe regulations governing the application of this section in their respective agencies. Regulations prescribed under this section may provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved."; and

(3) by amending the analysis of chapter 61—

(A) by inserting after the item relating to section 6101 the following new item:

"6102. Alternative work schedules."; and

(B) by amending the item relating to section 6106 to read as follows:

"6106. Adjustment of work schedules for religious observances.".

(b) Section 3401(2) of title 5, United States Code, is amended by inserting after the word "week" the following: "(or 32 to 64 hours a biweekly pay period in the case of an alternative work schedule under section 6102 of this title)".

(c) Section 5550a of title 5, United States Code, is repealed, and the item relating to such section is struck from the analysis of chapter 55 of title 5, United States Code.

(d) Section 7106(a)(2) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (C)(ii);

(2) by striking out the period at the end of paragraph (D) and inserting in place thereof"; and"; and

(3) by adding at the end thereof the following new paragraph:

"(E) not to authorize the use of an alternative work schedule under section 6102 of this title, or to terminate the use of any such schedule which has been previously authorized.".

SEC. 2. (a) The amendments made by this Act shall be effective on March 29, 1982, or the date of enactment of this Act, whichever is later.

(b) Any alternative work schedule which has been established under Public Law 95-390 shall be reviewed by the head of the agency and shall be terminated within 90 days of the enactment of this Act, notwithstanding any other provision of law or negotiated agreement, if the head of the agency determines that the schedule is not fulfilling the objectives set forth in section 6102(b)(1)(A)-(B) of title 5, United States Code, as added by the first section of this Act.

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By Mr. PERCY (for himself and Mr. DIXON):

S. 2157. A bill to provide for the establishment of the Illinois and Michigan Canal National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR

● Mr. PERCY. Mr. President, I am pleased today to introduce legislation which would establish the Illinois and Michigan (I. & M.) Canal National Heritage Corridor. My distinguished colleague from Illinois, Senator DIXON, is joining me in sponsoring this legislation, and our very able colleague from the Illinois congressional delegation, Representative CORCORAN, is entering companion legislation in the House.

The Illinois and Michigan Canal linked the Illinois River with Lake Michigan and thus established a direct water transportation route between the Great Lakes and the Gulf of Mexico. French-Canadian explorer Louis Joliet first discovered the need for the waterway and Irish and German laborers began work on the canal in 1836; 10 years later the canal was completed and Chicago began to develop as the center of midwestern commerce and trade. Eventually, a new waterway—the Chicago Sanitary

and Ship Canal—replaced the need for the old I. & M. Since that time many canal enthusiasts have dreamed of using the waterway not as an active transportation corridor, but rather for its potential for fishing or hiking.

Citizens from communities surrounding the canal volunteered their time and energy to restore the canal and the State of Illinois developed portions of the canal as a State park. During the last Congress, the Interior Department was directed, at my urging, to study the historic, natural, and recreational potential of the Illinois and Michigan Canal. The study by the Interior Department featured the input of more than 100 Illinoisans—including industrialists, local park district officials, and private conservationists—and incorporated the recommendations gathered at four public hearings. The report found more than 200 historic structures, nearly 40 unique natural areas, and numerous geologic and archeologic sites. The report, issued last year by the National Park Service, recommended preservation of historic and natural sites and development of a recreational trail from Chicago to LaSalle, Ill. When the report was issued, I met with Secretary of Interior James Watt, who gave his support to the concept and termed its recommendations, "daring and precedent-setting."

After months of study, I am pleased to introduce this legislation which will create the first nationally designated recreational area in Illinois. It is amazing to think that of the nearly 80 million acres in the national park system, only one 12-acre site—the Abraham Lincoln Home in Spingfield—is in Illinois.

Several additions to the national park system that are not literally national parks have been made by the Congress over recent years. National recreation areas and national reserves have been established and my legislation would establish the I. & M. Canal as a National Heritiage Corridor. These new disignations do not include the strict environmental restrictions of national parks and under my bill no land or property would be acquired by the Federal Government. The State of Illinois already owns much of the canal which is surrounded by a vigorous industrial belt, so Federal acquisition or strict environmental standards are neither necessary nor appropriate.

This legislation would establish a commission to market and promote the resources of the corridor and surrounding communities, as well as assist local land managing agencies—particularly park districts, forest preserves and the State—in carrying out the recommendations of the National Park Service report. The Commission would consist of 15 members, representing a balance of government, business, and industry; and historical, natural and recreational interests. The Commission would be charged to implement the recommendations of the National Park Service report, which include: The stabilization of the canal structure and its renovation for interpretation and recreation; the establishment of an intermittent recreational trail from Summit to LaSalle, Ill.; the retention of the natural setting of the trail; and the restoration of historic buildings.

Because the corridor lies amidst an industrial area, the Commission is also required to consider and encourage economic development. Local business interests have been involved in the formation of the Heritage Corridor proposal to an extraordinary degree and have assisted in the drafting of this legislation. A study by the Illinois Bell Telephone Co. concluded that some 700 jobs could be created in motel and restaurant businesses with the establishment of the Heritage Corridor and this legislation calls for a more comprehensive assessment of the economic impact of the Heritage Corridor proposal.

Mr. President, this is, indeed, an exciting and unprecedented proposal. It provides recreational opportunities to millions of Illinoisans, and offers the potential for increased job opportunities to hundreds who live along the corridor. It will preserve and protect the historic and natural resources along the canal, and will maintain the vitality of existing industries and encourage the further economic development of the communities surrounding the canal. It results from extraordinary cooperation by local interests—both public and private—and I fully intend to continue this cooperative effort toward establishing the I. & M. Canal National Heritage Corridor.

Mr. President, I ask unanimous consent that the bill and editorials from the Chicago Tribune and the Chicago Sun-Times in support of the Heritage Corridor and a Wall Street Journal story on the proposal be printed at this point in the RECORD.

There being no objection, the bill and editorials were ordered to be printed in the RECORD, as follows:

S. 2157

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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FINDING AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) An abundance of sites and structures within the corridor defined by the Illinois and Michigan Canal from Chicago to LaSalle, Illinois, symbolize in physical form the cultural evolution from prehistoric aboriginal tribes living in naturally formed ecosystems through European exploration, 19th century settlement, commerce, and industry right up to present day social patterns and industrial technology.

(2) The corridor has become one of the most heavily industrialized regions of the Nation with potential for further expansion and continued modernization. The area is currently experiencing high rates of unemployment and industrial migration. Designation of the corridor as provided in this Act may provide the stimulus required to retain existing industry and to provide for further growth and commercial revitalization.

(3) Despite efforts by State and local governments, volunteer associations and private business, the natural, cultural, historic, and recreational resources of the corridor have not realized their full potential social value and may be lost without assistance from the Federal Government.

(b) It is the purpose of this Act to retain, enhance, and interpret, for the benefit and inspiration of present and future generations, the cultural, historic, natural, recreational and economic resources of the Illinois and Michigan Canal Corridor, where feasible, consistent with a policy of continued economic growth. The actions taken under this Act to achieve this purpose shall emphasize voluntary cooperation, shall utilize existing authorities to the maximum extent practicable, and shall be undertaken in such manner as will enhance economic growth.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Corridor" means the Illinois and Michigan Canal National Heritage Corridor established under section 3.

(2) The term "Commission" means the Illinois and Michigan Canal Heritage Corridor Commission established by section 4.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "National Park Service report" means the report submitted to the Congress by the National Park Service in October of 1981 containing a conceptual plan and implementation strategies for the Corridor.

(5) The term "conceptual plan" means the goals, objectives, and action statements of the conceptual plan presented in the National Park Service report and updated and revised by the Commission.

(6) The term "Canal" means the Illinois and Michigan Canal.

ESTABLISHMENT; BOUNDARIES; ADMINISTRATION

SEC. 3 To carry out the purposes of this Act, there is hereby established the Illinois and Michigan Canal National Heritage Corridor. The corridor shall consist of the areas depicted on the map dated —— and numbered ——, entitled ————. Such map shall be on file and available for public inspection in the Offices of the Commission established under section 4 and in the Offices of the National Park Service. Upon a request of the Commission signed by not

less than two-thirds of the members of the Commission, the Secretary may from time to time make minor revisions of the boundary of the Corridor. The Corridor shall be administered by the Commission in accordance with the provisions of this Act.

ESTABLISHMENT OF THE ILLINOIS AND MICHIGAN CANAL HERITAGE CORRIDOR COMMISSION

SEC. 4. (a) There is established within the Department of the Interior a commission to be known as the Illinois and Michigan Canal Heritage Corridor Commission which shall administer the Corridor and carry out the duties specified in section 9 of this Act.

ECONOMIC IMPACT STUDY

SEC. 5. Except to the extent that prior studies have provided such analysis with respect to the National Park Service Report, the Secretary shall, in cooperation with the State government and the private sector, conduct a study of the economic impact of activities recommended in the National Park Service Report. Such study shall be carried out only if 50 percent of the funds necessary to conduct the study have been provided to the Secretary. The study shall be completed not later than 6 months after the date of the enactment of this Act.

ENVIRONMENTAL PROTECTION

SEC. 6. (a) Nothing in this Act shall be deemed to impose any environmental, occupational, safety, or other rules, regulations, standards, or permit processes which are different from those presently applicable, or which would be applicable, had the Corridor not been established.

(b) The designation of a national heritage corridor shall not impose any change in Federal environmental quality standards. No portion of the Corridor which is subject to part C of title I of the Clean Air Act, as amended in 1977 (Public Law 95-95), may be designated as Class 1 for purposes of such part C solely by reason of the establishment of the Corridor. No State or Federal agency shall impose more restrictive water use designations or water quality standards upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Corridor solely by reason of the establishment of the Corridor. Nothing in the designation of the Corridor shall abridge, restrict, or alter applicable rules, regulations, or standards and review procedures for permitting of facilities within or adjacent to the Corridor, including rules, regulations, or standards under the following Acts:

(1) The Clean Air Act.
(2) The Clean Water Act.
(3) The Solid Waste Disposal Act.
(4) The Safe Drinking Water Act.
(5) The Comprehensive Environmental Response, Compensation and Liability Act.
(6) The Rivers and Harbors Act of 1899.
(7) The Toxic Substance Control Act.
(8) The Noise Control Act of 1972.

(c) The Commission, or other public or private entities may fund the installation of fencing, warning signs, and other protective features satisfactory to adjacent property owners or users and public managing agencies and to the Commission. The Commission shall not require any such installation. Participation in Corridor programs by any firm, public, or private owners shall be voluntary.

RESTRICTIONS ON COMMISSION

SEC. 7. Nothing in this Act shall be construed to vest in the Commission any authority—

(1) to establish or modify any regulatory authority of any State or local government, including any authority relating to land use regulations, environmental quality, or pipeline or utility crossings,

(2) to modify any policy of any public land managing agency, or

(3) to establish or modify any authority of any government agency with respect to the acquisition of lands or interests in lands.

Nothing in this Act shall diminish, enlarge, or modify any right of the State or any political subdivision thereof, to exercise civil and criminal jurisdiction with the Corridor or of rights to tax persons, corporations, franchises, or property, including mineral or other interests in or on lands or waters within the Corridor.

MEMBERSHIP OF COMMISSION

SEC. 8. The Commission shall consist of 15 members as follows:

(1) The Director of the National Park Service, ex officio, or his designee;

(2) The director of the Illinois Department of Conservation, ex officio, or his designee;

(3) The director of the Illinois Department of Commerce and Community Affairs, ex officio, or his designee;

(4) The president of the Board for the Chicago Metropolitan Sanitary District, ex officio, or his designee.

(5) One representative of a forest preserve district in the Corridor, as appointed by the Governor of Illinois;

(6) Five individuals appointed by the Governor of Illinois to represent the interests of business and industry; and

(7) Five individuals appointed by the Governor of Illinois to represent the interests of history, archaeology, and historic preservation; natural area conservation; recreation; and fish and wildlife.

Members appointed under paragraphs (6) and (7) shall be selected with due consideration to equitable geographic distribution. The appointments made each two years under paragraph (5) shall rotate among the three forest preserve districts in such manner as will insure equal representation in the Commission for each such district over each six year period commencing with the initial appointment.

(b) Members of the Commission shall be appointed for terms of two years. No individual appointed under paragraph (6) or (7) may serve more than two terms on the Commission.

(c) The chairperson of the Commission shall be elected by the members of the Commission from among the members appointed under paragraphs (6) and (7). The term of the chairman shall be two years.

(d)(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term for a period not longer than thirty days.

(e) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) The Commission shall meet at least quarterly at the call of the chairman or a majority of its members.

(g) Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

DUTIES OF THE COMMISSION

SEC. 9. (a) The Commission shall implement and support the goals of the conceptual plan which primarily relate to or involve the recreation areas, and in accordance with such plan, the Commission—

(1) For goal number 1—to stabilize structures of the Canal and renovate portions for interpretation and recreation—shall assist the Illinois Department of Conservation or other public agencies or its designees to secure funds so that such Department or other agency or its designees may proceed with implementation of the plan, and shall in no way infringe upon the already-established authorities and policies of such Department concerning the management of the Canal property;

(2) For goal number 2—to establish an intermittent recreational trails from Summit to LaSalle, Illinois—shall provide staff technical assistance and fundraising support to the Illinois Department of Conservation and other public land managing agencies accepting responsibility for the establishment and maintenance of trails through the Des Plaines River valley which is compatible with economic development interests in the valley, and shall in no way infringe upon the authorities and policies of such agency or agencies; and

(3) For goal number 3—to retain the natural setting of the trail corridor—shall direct its staff to encourage private land owners adjacent to the trail corridor to retain voluntarily, as a good neighbor policy, a strip of natural vegetation as a visual screen and natural barrier between the trail and corridor development.

(b) In implementing and supporting the goals of the conceptual plan which primarily relate to or involve the heritage zone, and in accordance with such plan, the Commission—

(1) For goal number 4—to provide for retention and enhancement of unique natural areas—shall direct its staff to encourage private owners of recognized natural areas on the Illinois Natural Areas Inventory to adopt voluntary measures for their preservation, shall act as a fundraiser to support acquisition of threatened natural areas from willing sellers by a public land managing agency, and shall in no way infringe upon the authorities and policies of any such agency;

(2) For goal number 5—to enhance public awareness of and appreciation for historic, archaeologic, and geologic resources—shall direct its staff to conduct an inventory of historic, archeologic, and geologic resources in the Corridor, and shall encourage private owners of the identified resources to adopt voluntary measures for their preservation and shall act as a fund raiser for the acquisition of threatened or significant resources from willing sellers by a public land managing agency;

(3) For goal number 6—to restore historic buildings with economic development potential—shall direct its staff upon request from towns within the Corridor to provide technical assistance in historic preservation, and shall act as a fundraiser to support revitalization efforts;

(4) For goal number 7—to interpret the cultural and natural resources of the Corridor—shall direct a study to determine the

thematic structure of the heritage story, shall finance development of interpretive materials, and, in a voluntary fashion, shall coordinate ongoing interpretive services in the Corridor, encourage new interpretive initiatives, and establish visitor orientation centers in the Corridor; and

(5) For goal number 8—to establish recognition for the Corridor—shall actively market the amenity resources of the Corridor on a community, regional, statewide, national, and international basis.

(c) In addition to the Goals specified in subsections (a) and (b), the Commission shall implement and support, as goal number 9, the goal of enhanced economic development in the Corridor. In carrying out such goal, the Commission shall provide support to local land managing agencies, economic development commissions, and potential commercial or industrial concerns interested in locating within the Corridor.

(d) To encourage economic growth, the Commission in carrying out its activities under subsections (a) and (b) shall adhere as closely as possible to the time frame prescribed in the conceptual plan. The Commission may modify the conceptual plan where it determines that such modification is necessary to carry out the purposes of this Act. No modification may be made in the conceptual plan unless advance notice is provided to affected local officials and no significant modification (as determined by the Commission) may be made in such plan unless the Commission provides notice and opportunity for public hearing.

(e) For purposes of carrying out the conceptual plan, the Commission shall enter into such cooperative agreements with State and local government authorities and private organizations within the Corridor as may be necessary. The agreements shall, at a minimum, establish procedures for providing notice to the Commission of actions proposed by such authorities which may affect the conceptual plan. The Commission may refuse to obligate or expend funds appropriated pursuant to this Act for carrying out the plan in any case in which the Commission determines that any local government authority or private organization has failed or refused to enter into, or to carry out in good faith, a cooperative agreement under this subsection.

(f) The Commission shall publish and submit to the Governor and the Secretary, an annual report concerning its activities.

(g) Any Federal entity conducting or supporting activities directly affecting the corridor shall—

(1) consult with, cooperate with, and to the maximum extent practicable coordinate its activities with the Secretary and with the Commission; and

(2) to the extent feasible, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the resources cited in the report.

(h) Before undertaking any major action (including the expenditure of funds) respecting any capital improvement and before making any funds available to any entity for the acquisition of any real property, the Commission shall prepare an economic impact assessment with respect to such undertaking or expenditure. Such assessment shall include an analysis of—

(1) the costs of such undertaking or expenditure;

(2) any adverse economic effects which cannot be avoided;

(3) alternatives to such undertaking or expenditure which could accomplish the same purpose, together with an estimate of the costs of such alternatives; and

(4) the economic and noneconomic benefits to be expected from such undertaking or expenditure.

The assessment under this section shall be as brief and concise as practicable. Where necessary in the judgment of the Commission, taking into account the time and resources available to the Commission and the other authorities and duties entrusted to the Commission under this Act, the statement may consist of a summary of such data and information referred to in paragraphs (1) through (3) as is currently and readily available in files and documents in the possession of the Commission.

(i) Notwithstanding any other authority of this section, in implementing and supporting Goal #1 (or in carrying out any other authority vested in the Commission), the Commission shall not be required to adopt the specifics recommended in the Historic American Engineering Record study published in April of 1981.

(j) At least 5 percent of the sums available to the Commission from any source may be used only for implementing each of the 9 goals referred to in section 5(a).

POWERS OF THE COMMISSION

SEC. 10. (a) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. Nothing in this Act authorizes the issuance of any subpena by the Commission or the exercise of any subpena authority by the Commission. The Commission may establish such advisory groups as necessary to ensure open communication with and assistance from county governments, canal towns, industry, and other interested parties. Meetings of the Commission shall be subject to section 10 of the Federal Advisory Committee Act (5 U.S.C. App.).

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, personal property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties. For purposes of section 170(c) of the Internal Revenue Code of 1954, any donation to the Commission shall be deemed to be a donation to the United States.

(d) The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(e) The Commission may direct staff projects and utilize any specially appropriated Federal or State funds or private sector donations to carry out any aspect of the conceptual plan in the manner specified in subsections (a) through (d) of section 7. Any funds available to the Commission for capital improvements to recreation trails or to the canal and for land acquisition shall be transferred by the Commission to the managing agency for expenditure.

(f) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(g) The Commission may obtain by purchase, rental, or donation, such personal property, facilities, and services as may be needed to carry out its duties.

(h) The Commission may not acquire any real property or interest in real property through condemnation or the exercise of the power of eminent domain, nor may the Commission acquire any real property or interest in real property in any other manner (including gift devise, or inheritance).

STAFF OF COMMISSION

SEC. 11. (a) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-15 of the General Schedule.

(b) The Commission may appoint and fix the pay of such additional staff personnel as the Commission deems desirable and may direct staff loaned to the Commission cooperatively with loaning agencies. The Staff may include specialists in areas such as interpretation, historic preservation, recreation, conservation, commercial and industrial development and revitalization, financing and fundraising.

(c) The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS-15 of the General Schedule.

(d) Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United Stated Code, but at rates determined by the Commission to be reasonable.

(e)(1) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

(2) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

TECHNICAL ASSISTANCE

SEC. 12. To carry out the purposes of this Act, the Secretary shall:

(1) For fiscal year 1983—conduct a separate inventory for each of the following: historic, architectural, and engineering structures; archaeologic, and geologic sites in the Corridor from Chicago to Peru;

(2) For fiscal year 1983—assist the Commission in developing thematic structure for interpretation of the Heritage Corridor story;

(3) For fiscal year 1984—design and fabricate the following interpretive materials:

(A) Trail guide brochures for exploring the heritage story via private auto, bus, bike, boat, or foot;

(B) Trail guide brochure for a heritage trail through each canal town;

(C) Visitor orientation displays for eight locations along the heritage corridor from Chicago to Peru;

(D) Develop a curriculum element for local schools as well as an appropriate mobil display depicting the heritage story;

(E) Produce video presentations on the project;

(4) For each fiscal year 1983-93: Provide feasibility studies for retrofitting 6 historic structures to be selected by the Commission for modern use. The studies should include recommendations concerning stabilization, adaptive reuse potential, strategies for finding private investors, and tax credit advantages and to provide brochures to explain available tax credit advantages available;

(5) For each fiscal year 1983-93: Provide individual tax benefit analysis on various easements or other less-than-fee title alternatives for protecting 3 natural areas in the Corridor presently under private ownership;

(6) For each fiscal year: Provide consultation on fundraising and volunteerism strategies;

(7) For each fiscal year: Provide two staff positions to the Illinois and Michigan Canal Heritage Corridor Commission.

RELEASE OF CANAL TITLE

SEC. 13. The United States shall release to the State of Illinois all remaining rights it holds to the title of property associated with the Illinois and Michigan Canal except as to the canal; prism and towpath. Remaining interests are reservations in the canal prism and towpath shall be released to the State of Illinois only at the discretion of the Secretary.

EXPIRATION OF COMMISSION

SEC. 14. (a) The Commission established under this Act shall terminate on the date 10 years after the date of the enactment of this Act unless the Commission determines, before such date, that it is necessary to remain in operation for a longer period to carry out the purposes of this Act. If the Commission makes such determination, the Commission shall terminate on a date (not more than 15 years after the date of the enactment of this Act) specified by the Commission and approved by the Governor of Illinois and by the Secretary. Any determination of the Commission that it is necessary to extend the 10 year termination date shall be submitted, 180 days before the extension is approved by the Commission, to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

(b) Upon termination of the Commission, all property of the Commission shall be transferred by the Commission to appropriate agencies, as determined by the Commission.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. (a) There are authorized to be appropriated such sums as may be necessary to carry out this Act, except that the total of the amounts authorized to be appropriated for the purpose of section 5 shall not exceed $50,000.

(b) Funds appropriated pursuant to subsection (a) of this section shall remain available until expended.

(c) No funds shall be authorized pursuant to this section prior to October 1, 1982.

(d) Notwithstanding any other provision of this Act, no authority to enter into agreements or to make payments under this Act shall be effective except to the extent, or in such amounts, as may be provided in advance in appropriation Acts.

[From the Chicago Tribune, Jan. 15, 1982]

HOORAY FOR THE HERITAGE CORRIDOR!

Almost two years ago, Tribune sports writer John Husar spent three months paddling down the Des Plaines River. He was accompanied by Gerald Adelmann, program coordinator for the Open Lands Project, a private conservation group. Their explorations were the genesis of what is now expected to become a federally supported "national heritage corridor."

Mr. Husar wrote a series of articles about the scenic and man-made wonders in the narrow, 100-mile-long strip running from Chicago to LaSalle along the historic old Illinois & Michigan Canal. The Open Lands Project led the subsequent campaign to stimulate federal interest in this underused resource. Senator Percy supported the corridor concept and convinced Interior Secretary James G. Watt of its value.

Under a plan expected to be approved by Congress, the land would not get the kind of full national park status that carries tough environmental restrictions. But the corridor designation would enable federal funding of up to $16 million and smooth the way for making the land more accessible to the public.

Much of the land is already publicly owned, but trailways must be further opened up to hikers, bikers, skiers, horsemen, and others in search of recreation and the sight of wildlife and unusual prairie flora. The corridor is also rich in historic industrial and other architecture that has received inadequate attention. It may well generate tourist business. It will even provide a selling point for local government leaders trying to attract new industries and residents.

Whatever the ultimate results, the corridor will offer a swath of exurban breathing space that can be enjoyed by millions. All who have helped bring the project to the brink of realization deserve the public's thanks.

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[From the Sun-Times, Aug. 25, 1981]

A NATIONAL PARK FOR ILLINOIS

One of the longest, skinniest parks in the world would meander out of Chicago's Southwest Side and into Illinois history, if some imaginative people have their way.

Its name does not sound like something to inspire poets and lovers: I & M Canal National Heritage Corridor.

But the idea has tremendous appeal, and not only because of its low price tag. At the most, it would require $1.5 million in U.S. Park Service money over three years. Its backers, led by the Open Lands Project, would probably settle for national park designation and technical assistance from the Park Service to get established.

The park would nestle in the Des Plaines River valley, along the banks of the old Illinois & Michigan—the city's birth canal.

More than 300 years ago, the native Americans living on the little river they called Chekagou showed French-Canadian explorer Louis Joliet how to take his boats from the Great Lakes to the Mississippi via streams and a muddy portage. A great city could flourish on the lakeshore, he wrote, adding: "It would only be necessary to build a canal."

Work finally began on July 4, 1836, with hundreds of newly arrived German and Irish diggers. It was finished 12 years later—100 miles long, lined by limestone bluffs and forests and prairies. Eventually the deeper Sanitary & Ship Canal took the I & M's trade. Little remained but a silent stream with curious old locks and dams.

For years, a group of dreamers saw another kind of I & M: bordered with bike and foot trails and dotted with small boats, its old French canal towns thriving with vacationing families in reborn inns, its historic industries doubling as living, working museums.

Last year, at the urging of Sen. Charles H. Percy (R-Ill.), the Interior Department's Park Service studied the concept and agreed. Its draft report, finished in June, envisions a new kind of national park that incorporates prairie, forest, canyons, streams, beaver, deer, bobcats, heron islands, archeological sites, architectural gems and, yes, steel works and chemical tanks. (They can look quite striking and dramatic atop a bluff.)

"The traveler could sleep under the stars one night, in a hostel the next and in a hotel the third," says the Park Service.

"There would be 20 to 30 interpretive stations with personnel to explain industrial operations, local history, canal navigation spanning 140 years, aristocratic homes, prairie lands, native American cultures . . . historic walking tours of the 17 canal towns. . . ."

Gerald W. Adelmann, coordinator of Open Lands' park project, is working to involve valley industries in the plans and convince them that the benefits in tourism and public relations will more than offset any inconveniences. They are responding.

Gov. Thompson has mentioned another benefit, one Illinois sorely needs: a reminder of the historic link and mutual dependency between Chicago and Downstate. "Maybe this corridor project can help bring us back together," he said.

Maybe. In the meantime, we hope this modest, attractive and immensely creative idea is a big hit in Washington.

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[From the Chicago Sun-Times, Nov. 1, 1981]

PERCY'S SOLID SUPPORT AIDS NEW PARK

Thanks to Sen. Charles H. Percy (R-Ill.) and his staff, Illinois has leaped a major hurdle that might have blocked an important conservation and job-creation project.

The hurdle is Interior Secretary James G. Watt. The project is the I & M Canal National Heritage Corridor. The leap was made when Percy won Watt's "enthusiastic and active support" for the federal park in the Des Plaines River Valley along the old Illinois & Michigan Canal. The adjectives are important.

The park would be long (100 miles) and skinny (only 35 feet wide in places). A major goal is to save the historic waterway that was once a canal. But there's more.

The Open Lands Project, the Chicago conservation group behind the project, convinced businesses that this special kind of park can accommodate steel and chemical works along with forests, canyons, streams and other more traditional park scenes.

No one can say for sure what impressed a difficult man like Watt. But give Percy credit for a strong presentation. Watt called the cooperation between industrialists and environmentalists and between local and state governments "daring and precedent-setting."

The price tag is about $16 million.

Percy expects to ask the next session of Congress to approve the park, which also will be a reminder of the historic link between Chicago with Downstate. With Watt's support, the expectation of approval is high.

Almost as high as Illinois' spirits.

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[From the Sun-Times, Feb. 4, 1982]

A REAL "INDUSTRIAL PARK"

A group of Illinois business leaders, conservationists and public officials will meet Friday in Joliet to preside over the birth of a new kind of national park: one designed to promote industrial growth.

That may not sound like a romantic concept for a park. Neither is its name likely to inspire song and verse: I & M Canal National Heritage Corridor.

But this long, narrow strip that meanders out of Chicago's Southwest Side through 100 miles of limestone bluffs, forests and prairies has a heroic past. It follows the old Illinois and Michigan Canal, first proposed three centuries ago by French-Canadian explorer Louis Joliet as a transportation link between the Great Lakes and the Mississippi River system.

More than 150 years passed before his dream ditch was dug, but it delivered just as he predicted. Eventually the deeper Sanitary & Ship Canal took the I & M's trade.

Now the old stream is beginning to enjoy a second life as a family playground, bordered with bike and foot trails and dotted with small boats. An industrial plant rises here and there on the bluffs, above picturesque towns.

This unusual mix appealed to the Open Lands Project, a conservation group. With the help of Sen. Charles H. Percy (R-Ill.) and Rep. Tom Corcoran (R-Ill.), and with the support of local officials and industries, Open Lands campaigned to transform the I & M strip into a national park that would use natural beauty and historic sites to lure industries into its borders and strengthen those already there.

Interior Secretary James G. Watt called the concept "daring and precedent-setting" and gave it his blessing.

At Friday's meeting, representatives from industrial and business groups will help Open Lands and public officials draft legislation creating the park. To pass this session, it must be introduced in Congress by Feb. 15. The deadline is tight, but the idea can't lose.

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[From the Wall Street Journal, Aug. 13, 1981]

URBAN RETREAT: CHICAGO NATIONAL PARK IS PROPOSED ALONG CANAL IN AN INDUSTRIAL AREA

BACKERS CLAIM RECREATIONAL AND HISTORICAL ATTRIBUTES FOR ILLINOIS RIVER VALLEY

(By Frederick C. Klein)

CHICAGO.—The Des Plaines River Valley, beginning along the southwest border of Chicago and extending 25 miles west to Joliet, hardly strikes one as an obvious site for a national park. It exhibits no awesome natural features, and it isn't conventionally scenic. The casual visitor sees mostly busy highways, railroad tracks, factories, power plants and oil-storage facilities.

Yet a movement is under way to make the area part of a proposed 100-mile-long national park that would honor the natural and industrial history of Illinois. Its focus would be the Illinois & Michigan Canal, the all but forgotten waterway that established Chicago as the business capital of the Midwest.

The park still is in planning, and its eventual configuration isn't settled. Moreover, it isn't certain that a national park ever will be created here. The U.S. Department of the Interior, which would have to approve the scheme, has declared a moratorium on new parkland acquisitions. The Interior Department has a big backlog of parks that have been sanctioned but not assembled, and the department is concentrating on improving existing park facilities.

But backers of the Illinois park, including many of the state's leading politicians, say their proposal has unusual merits. The most obvious of these, they note, is that it is so close to Chicago and would put important new recreational opportunities within the grasp of a huge metropolitan population. With gasoline prices so high, that is an important consideration, they say. Proponents see this, like Gateway national Recreation Area along New York City's shoreline, as a precedent for other parks close to urban areas.

ALREADY PUBLICLY OWNED

They also point out that since much of the land that would constitute the park already is in state or local government hands, the cost of putting the park together would be relatively small. And by involving local industry in the planning, they hope to avoid the sort of Business vs. Environmentalist quarrels that attend the birth of most big U.S. park projects.

"We don't intend to radically alter the landscape. Mostly, we would like to take what is there and ask people to look at it in a new way," says Gerald W. Adelmann, program coordinator for Open Lands Project, the private conservation group that has led the park drive.

Further improvements are seen for later. These include extensive canal renovations and maybe even reenactments of canal life that would feature mule-pulled barges. Facilities for overnight stays would be added in the rural section of the park west of Joliet.

The estimated price for the park's first three years of operation is $1.5 million. Open Lands' Mr. Adelmann says he would be satisfied with "just a national park designation and the technical assistance of the Park Service (to) get us off the ground." He adds, "That would give us the visibility we need to establish the area as worth seeing."

The modesty of park proponents' aims has reassured industries in the region. "When we first heard 'national park,' we envisioned a big government land-grab and attempts to shove super-stringent pollution controls down our throats," says Timothy A. Madden, executive director of the Three Rivers Manufacturers Association, based in Joliet. "As the thing has unfolded," he says, "it has become clear that nothing like that is intended. The park people seem to want to coexist with us."

Mr. Madden says, "we've still got problems with the park idea, such as how we'd share the roads with visitors and how we'd get them through our properties to the park land. Insurance also could be a hang-up. But these seem to be issues that reasonable people can resolve."

Indeed, some see the park as a possible economic boon to a region with aging industrial facilities and plagued by plant closings that have boosted unemployment to 12% or 14% in recent months.

Lockport, for example, already has begun to remodel its downtown business district along early-Illinois historical lines, and John J. Soviak, a banker in the town of 9,000, notes that "a little tourist business wouldn't hurt." He also believes that a national park "might give us a selling point in drawing new industry and people. We know we don't have a Yosemite or Mammoth Cave on our hands, but we still think it's very nice."

It is generally agreed that a big obstacle to attaining national recognition for an I&M Canal park is prevalent ignorance of the canal's historic importance and of recreational opportunities in the waterway corridor, an area the Chicago Tribune has called "our hidden wilderness."

In 1974, the Illinois Department of Conservation took control of a 61-mile stretch of the canal between Channahom, just west of Joliet, and LaSalle, and opened 20 miles of its former towpath as a "state trail." Public use of the trail has been "pretty sparse," Dave Carr, the department's superintendent, concedes.

Mr. Carr believes that the trail would be used more if it got more attention and if improvements were made. Those things would happen if the area became a national park. In the meantime, he says, the canal could use some boosters.

"Everybody knows about the Erie Canal because of the songs that were written about it," he says. "I bet there were songs about the I&M Canal, too. If we can't dig any up, maybe somebody could write one."

"All over the corridor," Mr. Adelmann says, "there are historical sites and small scenic areas that are overlooked even by people who live near them. We hope to point them out, make them accessible and interpret them so they can be appreciated. We also hope to persuade people that a landscape isn't necessarily spoiled because a smokestack is in it. In fact, our emphasis on industrial history will serve to show how the landscape and the smokestack fit together."

AKIN TO DUSSELDORF

Most of the smokestacks in the proposed park, as well as most of the difficulties of access, are in the 25 miles between Chicago and Joliet. Three waterways—the Des Plaines River, I&M Canal and the Chicago Sanitary & Ship Canal—run parallel for much of that distance. The strip is so heavily industrialized that it has been called the Ruhr Valley of the Midwest.

The region's early economic importance was made possible by the I&M Canal. Built between 1836 and 1848 by immigrant laborers using hand tools, the 96-mile tow canal bypassed the often shallow and meandering Des Plaines and created the first navigational link between Lake Michigan and the Illinois River, which joins the Mississippi. The canal allowed travel by water from New York to New Orleans and was responsible for Chicago's explosive growth.

The canal was used extensively until about 1880, when it lost out to the railroads and, later, to the broader, deeper Sanitary & Ship Canal. The I&M Canal was a magnet for steel mills, quarries and granaries, and it spawned the towns of Lemont, Lockport and Joliet, among others. The completion of the Sanitary & Ship Canal in 1900—and improvements made to the Des Plaines—brought the area its present complex of chemical plants, oil refineries and power-generating stations.

CANAL RESTORATION

The part of the I&M Canal that was in Chicago was obliterated long ago, and beyond the city it is mostly a narrow, muddy ditch that is easily ignored. But portions of its original locks and dams remain and would be restored under park plans.

Just as important, park supporters say, are the architectural, early-industrial and scenic features of the valley. But some of this history is crumbling from neglect and some is on, or is obstructed by, private property and can't easily be visited by the public.

On the grounds of U.S. Steel Corp.'s Joliet division, for instance, stone warehouses built during the 1860s for Joliet Iron & Steel Works stand alongside units of the present mill. Elsewhere on the same property are the weed-entangled ruins of a build-

ing that housed one of the first Bessemer steelmaking furnaces in the country.

Other evidence of history is to be found along the streets of the old canal towns of Lemont and Lockport, where there are numerous houses, churches and commercial buildings dating from the Civil War and earlier. Charles Gregorsen, a Chicago architect who specializes in restorations, calls the town "veritable museums of the pioneering ear in Illinois." He notes that examples of early American architecture are rare in Chicago itself because of the destruction caused by the "great fire" of 1871.

Most surprising to many are the places of natural beauty that survive in the valley, almost none of which can be seen from the main roads. Forest preserves contain limestone canyons that tower as high as 80 feet above clear, rapid streams. Beaver, deer and, some say, even bobcats dwell in the public lands that separate the three waterways. Islands in Lake Renwick, near Plainfield, just north of Joliet, are a major nesting ground for herons.

Biologist Philip Hanson, who is group programs director for the Field Museum of Natural History in Chicago, says that the rocky bottom lands of the Des Plaines include "some of the best examples of dry and wet prairie to be found intact anywhere." Mr. Hanson says that attention given to flora in the valley by park proponents has helped uncover species of small-leafed native prairie plants that were once thought to be extinct.

Those who have studied the park concept, including Interior Department officials working under a $200,000 congressional grant, believe that most of the initial work in creating a park would center on the section nearest Chicago and would be aimed at encouraging people to take day trips. Present hiking and bicycling trails and canoe routes would be improved and extended to places now off-limits. Printed matter explaining the historical and natural features of the area would be prepared. Surviving I&M Canal installations would be fixed up. New parking lots would give access to trails at various points.●

● Mr. DIXON. Mr. President, I am pleased to join my distinguished colleague from Illinois, Senator PERCY, in sponsoring this legislation establishing the Illinois and Michigan Canal National Heritage Corridor.

The corridor program seeks not only to protect cultural and natural resources, but also to bring about economic revitalization of the region. It regards the landscape as a whole, an environment where the development of one resource is intertwined with others. Urban and industrial are inseparable from the natural and historic. The Illinois and Michigan Canal National Heritage Corridor is a program that will preserve the entire character of the area.

A national designation would recognize the area as having national significance. But implementing the plan will be a partnership of local and State interests—historical societies, industrialists, conservation and recreation groups, and State and local governments.

Every effort has been made to reach a great cross section of people and interests in Illinois, in drafting this unique piece of legislation. Many meetings were held to solicit various points of view, and it is my hope that we can all continue to work together to make this project a reality.

The corridor is a vital commercial and industrial area and clearly should retain its character. It is not the intent of this plan to impose restrictions that would be burdensome to industry, but rather to enhance the area and promote economic development.

The project has the stong support of people who reside along the 90 miles of the canal from LaSalle to Chicago, as well as the Illinois Department of Commerce and Community Affairs and the Illinois Department of Conservation. Several Illinois newspapers have also endorsed the project.

I am pleased to add my name as a cosponsor of this bill, and will continue to work with the many groups interested in the project to make it a program that will benefit the State of Illinois and the Nation.●

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By Mr. DANFORTH (for himself, Mr. PELL, and Mr. BOSCHWITZ, Mr. PACKWOOD, Mr. PRESSLER, Mr. GLENN, and Mr. GOLDWATER):

S. 2158. A bill to amend title 23, United States Code, to authorize and direct the payment of an incentive grant for highway safety programs to any State in any fiscal year during which the statutes of the State include certain provisions relating to driving while intoxicated; to establish a national driver register, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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By Mr. DANFORTH (for himself, Mr. PELL, and Mr. BOSCHWITZ):

S. 2159. A bill to amend the Bankruptcy Act to provide that judgment debts resulting from a liability which is based on driving while intoxicated shall not be discharged; to the Committee on the Judiciary.

ATTACK ON DRUNK DRIVING

Mr. DANFORTH. Mr. President, since I became chairman of the Senate Commerce Committee's Subcommittee on Surface Transportation last year, I have taken every opportunity to alert my colleagues to the horrifying facts about automobile accidents. It is a national scandal that 50,000 Americans are smashed and slashed to death on our highways, and that 2 million people suffer disabling injuries in car accidents every year. The National Highway Traffic Safety Administration grimly predicts that the annual highway death toll will reach 70,000 by the end of this decade.

The greatest tragedy is that we have become desensitized to the meaning of these statistics. We have almost come to accept this carnage as the unfortunate price we must pay for the mobility we enjoy. However, if we look behind the mind-numbing statistics—if we ask why so many people are suffering—we will see that over half of this bloodshed results from our unwillingness to put a halt to the most frequently committed violent crime in America: drunk driving.

If it is difficult to visualize 26,000 corpses, 125,000 permanently maimed people and 650,000 temporarily disabled people, then it is difficult to grasp the scale of human suffering and economic loss our country experienced last year solely because of drunk driving. If it is impossible to imagine 260,000 shattered skulls and 1¼ million people absent arms or legs, then it is not possible to understand what drunk drivers have done to America in the last decade. Senator PELL, two of whose close advisers were killed by drunk drivers in separate incidents, pointed out last week that America would have to suffer an Air Florida crash every single day of the year before the commercial airline death toll would even approach the rate at which people are killed by drunks on the highways. I cannot believe Americans would stand idly by while such a series of disasters occurred.

In view of these facts, the only humane course of action for public officials at all levels of government to take is to declare an all-out attack on drunk driving. Ultimately, the only place a successful attack can be waged is on the State and local level, where our traffic laws are enforced. Nonetheless, the Federal Government has within its power the ability to galvanize a nationwide, grassroots effort to stop drunk driving. Today, I am introducing a legislative package to encourage and assist State efforts to keep drunks off the road. My proposal consists of three elements:

First, Federal financial incentives for States to enact a model antidrunk driving statute meeting specific basic standards;

Second, additional Federal funding to make it possible for the national driver register to provide quick nationwide access to information about dangerous traffic offenders; and

Third, an amendment of the Federal bankruptcy statute to classify drunk driving as a "willful and malicious" act. I would like to describe each aspect of this proposal in more detail.

In 1973, when I was attorney general of Missouri, I submitted to the Missouri General Assembly legislation to get to the root of the drunk driving problem. My proposal had two parts. The first part was to mandate automatic, on-the-spot revocation of driver's license whenever a police officer caught a drunk driver in the act. This would have made the question of an offender's driving privileges an administra-

tive rather than a criminal matter. The second part, was to stop drunks from continuing to drive after their license had been pulled by impounding any vehicle they were caught driving.

I thought this would be a highly effective way to make use of the fact that driving is a privilege and not a right. The first major element of the legislation I am introducing today is for the Federal Government to reward any State which enacts a law substantially like the one I just described. My initial thinking is that States which use this approach ought to have their Federal highway safety funding allocations doubled.

The second part of my proposal addresses the lamentable fact that no State, acting by itself, can keep drunks off the highways. One unfortunate consequence of American mobility is that offenders whose driving privileges are pulled in one State can easily apply for a license in another. Although the Federal Government presently operates a national driver register through which State licensing officials can learn about an applicant's record in other States, the present operation lacks sufficient funding to process requests for information quickly enough to make the register useful. I propose to upgrade the national driver register with modern computer technology and to encourage State participation in the program.

The third major feature of the proposed all-out attack on drunk driving is a purely Federal initiative. Federal legislators, like their State counterparts, should recognize drunk driving for what it is—a willful and malicious act. I was amazed to learn that, although the Federal bankruptcy statute does not allow discharge of debts arising from willful and malicious acts, some Federal judges have said that drunk driving is not, in itself, "willful and malicious." Upon that pronouncement, victims have been denied compensation. Legislation I am offering today will assure victims and their families that if they win a civil damage award against a drunk driver, they need not fear that the offender will use Federal law to escape his debt.

I offer this legislation today under no delusion that by itself it would end this terrible national tragedy. Rather, it is my hope that this proposal could serve as a useful contribution on the part of the National Government toward ending the national disaster known as drunk driving.

On March 3, the Subcommittee on Surface Transportation will hear testimony on a number of bills designed to stop drunk driving, including two measures introduced by Senator PELL. I am grateful to Senator PELL for his steadfast leadership on the drunk driving issue and his tireless efforts to bring this subject to the forefront. I am certain that the subcommittee will benefit greatly from hearing his testimony on March 3.

We will also hear from representatives of two of the most active anti-drunk driving citizen action groups. As a father of five children, my heart goes out to those parents whose children have been killed or crippled by drunks. According to the National Safety Council, 6½ million families have seen at least 1 member of their family disabled in the last 10 years, and, in the same decade, another quarter of a million families have seen a family member killed by a drunk driver. I hope all my colleagues will work with the subcommittee to help us fashion the most effective attack we can undertake on the drunk driver problem.

Mr. President, I ask unanimous consent that the text of the two bills be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2158

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I—INCENTIVE GRANTS FOR STATES WITH STRICT DRIVING WHILE INTOXICATED STATUTES

SEC. 101. Section 402 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(k)(1) The Secretary shall make an incentive grant to any State in the first fiscal year during which there is in effect in such State, as determined by the Secretary, a statute of general applicability—

"(A) requiring an administrative action to suspend an individual's motor vehicle operator's license or permit for one year when a law enforcement officer of the State requests the individual to submit, within a reasonable time after the law enforcement officer observes the individual operating a motor vehicle on a public road of the State, to a chemical test to determine whether the individual was intoxicated while operating the motor vehicle and—

"(i) the individual refuses to submit to such test and does not offfer to submit to any other test acceptable to the State to determine whether the individual was intoxicated while operating the motor vehicle; or

"(ii) the law enforcement officer determines, using a test acceptable to the State, that the individual was intoxicated while operating the motor vehicle; and

"(B) requiring the confiscation by and forfeiture to the State of any motor vehicle operated on a public road of the State by any individual during any period for which the individual's motor vehicle operator's license or permit is suspended or revoked by reason of a violation of the laws of any State relating to the operation of a motor vehicle while intoxicated.

"(2) The incentive grant payable to a State in any fiscal year under paragraph (1) of this subsection shall be—

"(A) in an amount equal to the amount apportioned to such State during such fiscal year under subsection (c) of this section; and

"(B) in addition to other funds payable to such State in such fiscal year under this section.

"(3) The incentive grant payable to a State in any fiscal year may be used by such State only to promote the purposes of this chapter.

"(4) For the purposes of paragraph (1) of this subsection—

"(A) the term 'administrative action to suspend' means a suspension by an agency or other instrumentality of the State upon the failure of the individual—

"(i) to show cause to such agency or instrumentality, at a hearing requested by the individual not later than seven days after the date of the occurrence of circumstances described in paragraph (1)(A) of this subsection, why, based on criteria and standards prescribed by the Secretary, the individual's license or permit should not be suspended; or

"(ii) to request, within the time period described in subclause (i) of this clause, that the agency or instrumentality conduct a hearing at which the individual may show cause why, based on such criteria and standards, the individual's license or permit should not be suspended;

"(B) the term 'intoxicated' means that there is present in the blood not less than ten one-hundredths of 1 percent, by weight, of alcohol; and

"(C) the term 'public road' has the same meaning as provided in the fourth sentence of subsection (c) of this section.".

SEC. 102. The amendments made by this Act shall take effect October 1, 1982.

TITLE II—NATIONAL DRIVER REGISTER

SEC. 201. This title may be cited as the "National Driver Register Act of 1982".

DEFINITIONS

SEC. 202. For purposes of this title, the term—

(1) "Advisory Committee" means the National Driver Register Advisory Commitee established in section 210(a) of this title;

(2) "alcohol" has the meaning given such term by the Secretary of Transportation under regulations prescribed by the Secretary;

(3) "chief driver licensing officials" means the official in each State who is authorized to (A) maintain any record regarding any motor vehicle operator's license issued by such State; and (B) grant, deny, revoke, suspend or cancel any motor vehicle operator's license issued by such State;

(4) "controlled substance" has the meaning given such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(5) "highway" means any road or street;

(6) "individual" means a citizen of the United States or an alien lawfully admitted to the United States for permanent residence;

(7) "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway, except that such term does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail or rails;

(8) "motor vehicle operator's license" means any license issued by a State which authorizes an individual to operate a motor vehicle on a highway;

(9) "participating State" means any State which has notified the Secretary of its participation in the Register system, pursuant to section 205 of this title;

(10) "Register" and "Register system" mean the National Driver Register established under section 204(a) of this title;

(11) "Secretary" means the Secretary of Transportation;

(12) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(13) "State of record" means any State which has transmitted to the Secretary, pursuant to section 206 of this title, any report regarding any individual who is the subject of a request for information made under section 207 of this title.

REPEAL OF EXISTING STATUTE

SEC. 203. The Act entitled "An Act to provide for a register in the Department of Commerce in which shall be listed the names of certain persons who have had their motor vehicle operator's licenses revoked" (Public Law 86-660; 74 Stat. 526) hereby is repealed, effective at the expiration of the 90-day period following the date of enactment of this Act.

ESTABLISHMENT OF REGISTER

SEC. 204. (a) The Secretary shall, within 90 days after the date of enactment of this Act, establish and thereafter maintain a register to be known as the "National Driver Register", to assist chief driver licensing officials of participating States in exchanging information regarding the motor vehicle driving records of individuals. The Register shall contain an index of the information that is reported to the Secretary under section 206 of this title, and shall be designed to enable the Secretary, either electronically or, until such time as all States are capable of participating electronically, through the United States mails, to—

(1) receive information submitted under section 206(a) of this title by the chief driver licensing official of any State of record;

(2) receive any request for information made by the chief driver licensing official of any participating State under section 207 of this title;

(3) refer such request to the chief driver licensing official of any State of record; and

(4) relay to the chief driver licensing official of a participating State any information provided by any chief driver licensing official of a State of record in response to such request.

(b) The Secretary shall not be responsible for the accuracy of any information relayed to the chief driver licensing official of any participating State under subsection (a)(4) of this section, except that the Secretary shall maintain the Register in a manner that ensures against any inadvertent alteration of information during any relay.

(c)(1) The Secretary shall within 60 days after the date of enactment of this Act, implement procedures for the orderly transition from the system for relaying information regarding the motor vehicle driving records of individuals which is in effect on the date of enactment of this Act to the Register established under section 204(a) of this title.

(2) In accordance with the provisions of paragraph (1) of this section, such procedures may provide for the incorporation in the Register of information contained in the system for relaying information regarding the motor vehicle driving records of individuals which is in effect on the date of repeal specified in section 203 of this title. No such information shall be maintained in the Register after the expiration of the seven-year period following the date of the enactment of this act if maintaining such information is inconsistent with the provisons of this Act. Any other record maintained under the Act described in section 203 of this title shall be disposed of in accordance with the provisions of chapter 33 of title 44, United States Code.

(3) The Secretary shall not maintain any report or information in the Register for more than a seven-year period after the date such report or information is entered into the Register or the date the State of record removes it from the State's file, whichever is earlier. Such report or information shall be disposed of in accordance with the provisions of chapter 33 of title 44, United States Code.

(4) If the chief driver licensing official of any participating State finds that information which has been transmitted for inclusion in the Register under this section is erroneous, such official shall immediately notify the Secretary of the error. The Secretary shall provide for the immediate deletion from the Register of such erroneous material.

(d) The Secretary shall assign to the administration of this Act such personnel as may be necessary to ensure the effective functioning of the Register system.

(e) The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this title.

STATE PARTICIPATION

SEC. 205. (a) Any State may become a participating State under this title by notifying the Secretary of its intention to be bound by the provisions of section 206 of this title.

(b) Any participating State may terminate its status as a participating State under this title by notifying the Secretary of its withdrawal from participation in the Register system.

(c) Any notification made by a State under subsection (a) or (b) of this section shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

REPORTS BY CHIEF DRIVER LICENSING OFFICIALS

SEC. 206. (a) The chief driver licensing official in each participating State shall, as soon as practicable after the date of enactment of this Act, transmit to the Secretary a report containing the information required in subsection (b) of this section regarding any individual—

(1) who is denied a motor vehicle operator's license by such State on grounds other than for failure to pass a written, visual or driving examination, or for reasons of financial responsibility;

(2) whose motor vehicle operator's license is canceled, revoked, or suspended by such State, except for reasons of financial responsibility, or who has such license reinstated following such cancellation, revocation, or suspension, due to previous error in action with respect to such license; or

(3) who is convicted in such State of the following motor vehicle-related offenses or comparable offenses—

(A) operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the ownership or operation of a motor vehicle.

(b) Any report regarding an individual which is transmitted by a chief driver licensing official pursuant to subsection (a) of this section shall contain—

(1) the legal name, date of birth (including day, month, and year), height, weight, eye and hair color, and sex of such individual;

(2) the name of the State transmitting such information; and

(3) the social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number);

except that any report concerning an occurence specified in subsection (a)(1), (2), or (3) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(c) Any report required to be transmitted by a chief driver licensing official of a State under subsection (a) of this section shall be transmitted to the Secretary—

(1) not later than 20 days after receipt by a State motor vehicle department of any information specified in subsection (a)(1), (2), (3) of this section which is the subject of such report, if the date of such occurrence is after the date on which such State becomes a participating State; or

(2) not later than the expiration of the two-year period following the date on which such State becomes a participating State, if such report concerns an occurrence specified in subsection (a)(1), (2), or (3) of this section that occurs during the two-year period preceding such date.

(d) If a record of conviction of a traffic offense has been transmitted by the chief driver licensing official of any participating State for inclusion in the Register and the conviction is subsequently reversed, such official shall immediately notify the Secretary of such reversal. The Secretary shall provide for the immediate deletion from the Register of the record of conviction.

(e) Any such information shall be retained for not longer than seven years following receipt by the Secretary, or until an electronic referral system in accordance with the provisions of section 207 of this title is in full operation, whichever is earlier.

(f) Nothing in this section shall be construed to require any State to report any information concerning any occurrence which occurs before the two-year period preceding the date on which the State becomes a participating State.

ACCESSIBILITY OF REGISTER INFORMATION

SEC. 207. (a)(1) For purposes of fulfilling his duties with respect to driver licensing, driver improvement, or highway safety, the chief driver licensing official of any participating State may, on and after the date of enactment of this Act, request the Secretary to refer electronically or through the United States mails any request for information regarding the motor vehicle driving record of any individual to the chief driver licensing official of any State of record.

(2) The Secretary shall electronically or through the United States mails relay to any chief driver licensing official of a participating State who requests information

under paragraph (1) of this subsection any information received from the chief driver licensing official of any State of record regarding an individual in accordance with paragraph (1) of this subsection, except that the Secretary may refuse to relay any information to any such official who is the chief driver licensing official of a participating State which is not in compliance with the provisions of section 206 of this title.

(b)(1) Any agency of the Government of the United States, for purposes of requesting information regarding any individual who has applied for, or received, a United States Government Motor Vehicle Operator Identification Card, SF-46, or a license to pilot an aircraft, may request the chief driver licensing official of a State in which an office of the Government of the United States is located to obtain information regarding such individual under subsection (a) of this section. Any such agency may receive any information obtained by the chief driver licensing official regarding such individual.

(2) The Chairman of the National Transportation Safety Board and the Administrator of the Bureau of Motor Carrier Safety, for purposes of requesting information regarding any individual who is the subject of any accident investigation conducted by the Board or Bureau, may request the chief driver licensing official of a State in which an office of the Government of the United States is located to obtain information under subsection (a) of this section regarding such individual. The Chairman and Administrator may receive any such information.

(3) Any employer of any individual who is employed as a driver of a motor vehicle, or any prospective employer of any individual who seeks employment as a driver of a motor vehicle, may, after having obtained the written permission of that individual, request the chief driver licensing official of the State in which the individual is employed, or seeks employment, to obtain information under subsection (a) of this section regarding the individual. An employer or prospective employer may receive such information regarding any such individual, and shall make that information available to the affected individual.

(4) Any individual, in order (A) to determine whether the Register is providing any data regarding him or the accuracy of any such data; or (B) to obtain a certified copy of data provided through the Register regarding him, may request the chief driver licensing official of a State to obtain information regarding him under subsection (a) of this section.

(5) Any request made under this subsection shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

(c) Any request for, or receipt of, information by means of the Register shall be subject to the provisions of sections 552 and 552a of title 5, United States Code, and any other applicable Federal and State law, except that—

(1) the Secretary shall not relay, or otherwise transmit, information specified in section 206(b)(1) or (3) of this title to any person not authorized by this section to receive such information;

(2) any request for, or receipt of, information by any chief driver licensing official, or by any person authorized by subsection (b) of this section to request and receive information, shall be considered to be a routine use for purposes of section 552a(b) of title 5, United States Code; and

(3) any receipt of information by any person authorized by this section to receive information shall be considered to be a disclosure for purposes of section 552a(c) of title 5, United States Code, except that the Secretary shall not be required to retain the accounting made under paragraph (1) of such section for more than a seven-year period after the date of such disclosure.

PILOT TEST PROGRAM

SEC. 208. (a) The Secretary shall design and implement, within 4 years after the date of enactment of this Act, a pilot test program for the purpose of demonstrating the potential effectiveness of a system for electronic referral and relay of information regarding the motor vehicle driving records of individuals.

(b) The Secretary shall solicit the participation of States which are interested in participating in such program and shall, within 30 months after the date of enactment of this Act, select four States to participate in the program.

(c)(1) The Secretary shall select States in accordance with the provisions of subsection (b) of this section from among States which have in effect, on the date of selection, an intrastate on-line driver licensing system capable of electronically transmitting information regarding the motor vehicle driving records of individuals.

(2) The Secretary shall select only those States which indicate a willingness to participate in a comprehensive mechanical and programmatic evaluation of systems for the electronic transfer of information.

(3) The Secretary shall ensure that the selection made pursuant to subsection (b) of this section is representative of varying geographical and population characteristics of the Nation, and that any States selected are non-contiguous.

(4) No State shall participate in the program unless it agrees to assist in providing information to other States regarding the electronic transfer of the motor vehicle driving records of individuals.

(d) Within three years after the date of enactment of this Act, the Secretary shall begin the pilot program authorized by subsection (a) of this section. Such program shall continue for a period of one year. In carrying out the program, the Secretary shall utilize different computer technologies and equipment in order to determine which technology and equipment is most effective for the electronic transfer of the motor vehicle driving records of individuals. The Secretary shall determine which systems and devices will best interconnect with systems and devices used in the States which are participating in the pilot program, as well as those used in other States.

(e) Any equipment or device which is provided to a State for use in the pilot program conducted under this section may, in the discretion of the Secretary, remain with the State following the conclusion of the pilot program.

(f) Not later than one year after the conclusion of the pilot program, the Secretary shall submit to the Congress a report on the program. Such report shall include an evaluation of the technology utilized during the program, together with an explanation of the nature and degree of State participation in the program. The report shall also contain an evaluation of achievements of the pilot program, as well as a projection of accomplishments which might result from the acquisition of electronic transfer equipment and methods by States other than those which participated in the pilot program.

CRIMINAL PENALTIES

SEC. 209. (a) Any person, other than an individual described in section 207(b)(4) of this title, who receives under section 207 of this title information specified in section 206(b)(1) or (3) of this title (the disclosure of which is not authorized by section 207 of this title), and who, knowing that disclosure of such information is not authorized, willfully discloses such information, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Any person who knowingly and willfully requests or under false pretenses obtains information specified in section 206(b)(1) or (3) of this title from any person who receives such information under section 207 of this title shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

ADVISORY COMMITTEE

SEC. 210. (a) There is established a National Driver Register Advisory Committee, which shall advise the Secretary concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records.

(b) The Advisory Committee shall consist of fifteen members, appointed by the Secretary, as follows:

(1) one member who is an employee of the Federal Government, to be appointed by the Secretary;

(2) two members from among individuals who are particularly qualified to serve the Advisory Committee by virtue of their education, training, or experience, and who are not employees of the Federal Government or of any State;

(3) two members from among groups outside the government which represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations; and

(4) ten members, geographically representative of the participating States, from among individuals who are chief driver licensing officials of participating States.

(c)(1) Except for the member designated in subsection (b)(1) of this section, and except as provided in paragraphs (2), (3) and (4) of this subsection, each member of the Advisory Committee shall be appointed for a term of three years.

(2) Of the members first appointed—

(A) one of the members described in subsection (b)(2) of this section and four of the members described in subsection (b)(4) of this section shall be appointed for a term of one year;

(B) one of the members described in subsections (b)(2) or (3) of this section and four of the members described in subsections (b)(4) of this section shall be appointed for a term of two years; and

(C) four of the members described in subsection (b)(4) of this section shall be appointed for a term of three years;

as designated by the Secretary at the time of their appointment.

(3) Any vacancy in the Advisory Committee shall be filled in the same manner as the original appointment. Any member appointed to fill any vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term until his successor has taken office.

(d) The members of the Advisory Committee shall serve without compensation, but the Secretary is authorized to reimburse

such members for all reasonable travel expenses incurred by them in attending the meetings of the Advisory Committee.

(e)(1) The Advisory Committee shall meet at least once each year, at the call of the Chairman or a majority of its members.

(2) The Advisory Committee shall elect a Chairman and Vice Chairman from among its members.

(3) Eight members of the Advisory Committee shall constitute a quorum.

(f) The Advisory Committee may receive from the Secretary such personnel, penalty mail privileges, and similar services as the Secretary considers necessary to assist it in performing its duties and functions under this section.

(g) At least once each year, the Advisory Committee shall prepare and submit to the Secretary a report concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records. Such report shall include any recommendations of the Advisory Committee for changes in the Register system.

(h) The provisions of the Federal Advisory Committee Act (5 U.S.C., Appx. 1 et seq.) shall not apply to the Advisory Committee.

REPORT BY SECRETARY

SEC. 211. Not later than the expiration of the nine-year period following the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the extent and level of participation in the Register system, and the effectiveness of such system in the identification of unsafe drivers. Such report shall include any recommendations of the Secretary concerning the desirability of extending the authorization of appropriations for this title beyond the period of authorization provided in section 212 of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 212. (a) There are authorized to be appropriated in fiscal year 1983 for expenses incurred in the establishment of the Register system under this title not to exceed $2 million.

(b) There are authorized to be appropriated to carry out the provisions of this title not to exceed $1.2 million in fiscal year 1983, not to exceed $1.5 million in fiscal year 1984, and not to exceed $2.1 million in fiscal year 1985.

(c) Funds authorized under this section shall remain available until expended.

S. 2159

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled;* That section 523 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) Any injury resulting in a judgment based upon liability of the debtor where, in connection with such liability such debtor was found to have operated a motor vehicle while legally intoxicated shall be deemed to be a willful and malicious injury for purposes of subsection (a)(6) of this section.".

● Mr. PELL. Mr. President, I am pleased to join with Senator DANFORTH in introducing a legislative package designed to reduce the slaughter on our Nation's highways caused by drunk drivers. As one who has long advocated stronger drunk driving laws, I welcome Senator DANFORTH's leadership on this issue as chairman of the Commerce Committee's Surface Transportation Subcommittee, and look forward to working closely with him on this legislation.

This bill embodies the drunk driving program advocated by Senator DANFORTH when he served as attorney general of Missouri. It encourages the States to qualify for additional Federal highway funding by adopting two mandatory administrative procedures aimed at keeping drunks off our highways. Automatic license suspension and seizure and impoundment of vehicles operated by individuals after their driving privilege has been removed for an alcohol offense provide a solid foundation for State and local drunk driver programs. To these administrative actions, Senator DANFORTH has added a provision computerizing and upgrading the National Driver Register. This provision is nearly identical to S. 672, a bill I introduced last year, and represents a long overdue reform giving the States the weapon they need to keep repeat offenders off the highways. Time after time, those individuals involved in fatal accidents caused by alcohol have had their licenses suspended or revoked in other jurisdictions. A computerized driver register will enable the States to screen license applicants for prior alcohol or other serious driving offenses, and commend Senator DANFORTH for including this provision in his legislation.

This bill is prompted by the same concern and interest that led me to introduce S. 671, namely the question of how the Federal Government can give local law enforcement the tools to deal more effectively with the drunk driver problem. Both bills recognize that local police, prosecutors and judges are our first line of defense against the drunk driver, and that the role of the Federal Government is to encourage comprehensive State and local programs that will succeed in reducing alcohol-related fatalities on the highways.

Too many lives have already been lost for us to temporize any longer. I look forward to working with Senator DANFORTH and the Commerce Committee in developing a comprehensive Federal initiative against drunk driving, and I welcome his legislation today as a very constructive starting point in that process.●

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By Mr. MITCHELL:

S. 2160. A bill to amend title 38, United States Code, to require the Secretary of Labor to make funds available to certain private nonprofit organizations to administer the disabled veterans' Outreach program in certain States, and for other purposes; to the Committee on Veterans' Affairs.

DISABLED VETERANS' OUTREACH PROGRAM

● Mr. MITCHELL. Mr. President, today I am introducing S. 2160, legislation to address a problem the State of Maine is experiencing in the administration of its disabled veterans Outreach program.

Congress first created the disabled veterans Outreach program (DVOP) in 1977 on an experimental basis. The program was designed to assist veterans, primarily disabled Vietnam veterans, in obtaining employment and was originally funded using CETA title III discretionary funds. In every State in the Nation other than Maine, the program is now administered by the State's job service through the Veterans Employment Service (VES) of the Department of Labor.

When DVOP was first created, the Governor of Maine felt it was unnecessary; consequently, he chose not to accept Federal funds to establish the program. So as not to lose this valuable opportunity to assist veterans in the State in finding much-needed employment, the Maine American Legion contracted directly with the Department of Labor to administer the program. Maine's DVOP has been run on a contractural basis ever since.

Realizing the success of the program nationwide, in 1980, Congress passed Public Law 96-466, the veterans' rehabilitation and education amendments. Among other things, the amendments made DVOP a permanent program to be administered by the Assistant Secretary of Labor for veterans' employment. Language contained in the authorizing statute was included to allow Maine's unique situation to continue. Section 2003A(a)(1) of Public Law 96-466 explicitly states:

> The Secretary of Labor shall make available to each State, directly or *by grant or contract*, such finds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans. (emphasis added).

With the elevated status of the program came a corresponding change in funding. Last year, the Secretary of Labor announced, beginning in fiscal year 1982, funding for DVOP's would come from the employment service's grants-to-States program, which funds the Job Service. Despite severe cuts in its own fiscal year 1982 operating budget, the Job Service was ordered to absorb nearly 2,000 DVOP specialists nationwide.

Because of the uniqueness of Maine's situation, in June of 1981, Senator COHEN and I wrote to Secretary of Labor Donovan to ask for his personal assurance that Maine's DVOP would continue to be funded by the Department of Labor either directly or by grant or by contract as provided for in section 2003A(a)(1), cited earlier. The Secretary's response, a copy of which will appear in the RECORD following my remarks, indicates that, although the Secretary supports the program, the grants-to-States funding

precludes either the Department of Labor, or the State of Maine, from contracting with the Maine American Legion to sponsor the program. Clearly, this was not the intent of Congress in passing Public Law 96-466.

In so doing, the Secretary indicated his belief that he either does not have the authority, or the intent, to contract with the Maine American Legion. As a result, the Maine Job Service was instructed to absorb the DVOP (this has not yet occurred, however, because of a pending lawsuit).

One may ask, why not allow Maine's DVOP to be absorbed by the Job Service? This, I think, it is a valid question. The answer lies in the success of Maine's DVOP. There are currently five DVOP offices in Maine staffed by a total of eight DVOP specialists, most of whom are Vietnam combat veterans who can readily identify with the needs of those whom they are trying to serve. Although there is a certain amount of redtape associated with Maine's DVOP, there is far less than if the program were run by the Job Service. This, as a result, has left Maine's DVOP specialists with more time to assist veterans in finding employment which, after all, is the primary objective of the program. In addition, because the DVOP specialists are not State employees, they have greater flexibility in adjusting their schedules to meet the needs of Maine's veterans.

Maine's record speaks for itself. Since its inception in 1977, Maine's DVOP has placed more than 3,000 veterans in jobs or job training programs at an average cost to the taxpayer of just $200 per placement. Each of these veterans has moved from "tax users," to tax contributors. Despite this large degree of success, however, the Secretary of Labor insists upon merging Maine's DVOP with the Maine Job Service.

As a result, the Maine American Legion and the DVOP specialists have felt it necessary to suit the Department of Labor to retain the program under the auspices of the American Legion. This situation can only be described as tragic: not only for the parties involved but for Maine's veterans who are losing as a result of this intergovernmental squabbling. This is not government for the people. It is government at the expense of the people.

The bill I am introducing today would address this problem simply and efficiently by creating a simple test. In those States where a DVOP was, prior to October 1, 1981, conducted pursuant to a contract between the Department of Labor and an entity other than a State, in this case the American Legion, the Secretary would be required to continue to make available to that entity sufficient funds to support the program.

I think it is important for my colleagues to realize that this bill will in no way affect the operation of DVOP's in any other State; rather, it will provide for the continued operation of one of the most efficient, well-run DVOP's in the country. I urge my colleagues to join me in this effort to rectify a most unfortunate situation.

Mr. President, I ask unanimous consent that the letter I received from the Secretary of Labor related to Maine's disabled veterans outreach program, as well as the full text of my bill, be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2160

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2003A of title 38, United States Code, is amended—

(1) by striking out "(a)(1) The" and inserting in lieu thereof "Except as provided for in the second sentence of this paragraph, the"; and

(2) by adding the following new sentence at the end of Section 2003A(a)(1), as amended above:

In the case of a State in which such a program was, prior to October 1, 1981, conducted pursuant to a contract or grant between the Department of Labor and an entity other than the State, the Secretary shall, unless the Secretary for good cause shown determines that such an entity is not qualified to conduct such a program, continue to make available to such entity either directly or by grant or contract, such funds as may be necessary to support such program.

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U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
*Washington, D.C., July 21, 1981.*

Hon. GEORGE J. MITCHELL,
*U.S. Senate*
*Washington, D.C.*

DEAR SENATOR MITCHELL: Thank you for your and Senator Cohen's letter of June 18, 1981, regarding the Disabled Veterans Outreach Program (DVOP) in Maine and your desire for my personal assurance that the Maine DVOP will continue to be funded by the Department of Labor, either directly or by grant or contract, in accordance with Public Law 96-466, Section 506(a).

Please be assured that the DVOP has the Department's continued support. I realize that in the past CETA Title III discretionary funds had been used by Maine to contract with the American Legion to run the program. However, limitations on the availability of CETA Title III discretionary funds preclude the continued funding of DVOP from that fund source for fiscal year 1982. In fiscal year 1982 the DVOP throughout the country will be funded by Employment Service (ES) Grants-to-States and the States have been instructed to absorb the DVOP positions. Since regular grants funds for ES functions are not be be used for contracting those services that ES is funded to perform i.e., counseling, referral, placement, etc., Maine has been informed that they may not contract for DVOP and the positions must be absorbed within their Grants-to-States allocation.

The fiscal year 1982 Grants-to-States allocation methodology for Maine takes into account the 11 positions and the funding necessary to support those positions. The Department has every intention that the DVOP will continue as mandated by Public Law 96-466.

Sincerely,

RAYMOND J. DONOVAN.●

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By Mr. GRASSLEY:

S. 2161. A bill to permit a married individual filing a joint return to deduct certain payments made to an individual retirement plan established for the benefit of a working spouse; to the Committee of Finance.

DEDUCTION FOR CERTAIN RETIREMENT PLAN PAYMENTS

● Mr. GRASSLEY. Mr. President, today, I am introducing a bill to permit all nonworking spouses to enjoy full IRA benefits. This measure will enable a working spouse to contribute up to $2,000 or 100 percent of compensation to an IRA set up for the benefit of his or her nonworking spouse. This contribution will be in addition to the IRA deduction generally available for the working spouse—currently the lesser of $2,000 or 100 percent of compensation. If a couple has $4,000 they wish to save for their retirement and at least $4,000 of compensation, they will be able to enjoy the same advantages available to a working couple today.

This bill also contains a provision increasing the amount of money certain divorced individuals may contribute to an IRA. Under current law, a divorced individual may contribute alimony proceeds up to $1,125 to an IRA. This provision increases to $2,000 annually the amount of alimony a divorced person may contribute to an IRA. Increasing the limit to $2,000 will bring this provision into conformity with all other IRA contribution limits and simplify the law.

This legislation is needed to put homemakers on an equal par with other working spouses. In my home State, many women contribute long hours to the betterment of family farm and never receive monetary compensation, hence they are ineligible to set up an IRA account. It seems to me their retirement needs are no less compelling than the wife who receives a paycheck for her work. Both of these individuals should be encouraged to plan effectively for their retirement: there is no logic in a Federal policy which discriminates between them. This bill eliminates this senseless distinction and expands the ability of individuals to plan for their retirement in important ways. Mr. President, I urge my colleagues to join with me in supporting this improvement in current spousal IRA law.●

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By Mr. PROXMIRE:

S. 2162. A bill to amend the Federal Financing Bank Act of 1973 to require that the receipts and disbursements of the Federal Financing Bank be included in the Federal budget, and for

other purposes; to the Committee on Banking, Housing, and Urban Affairs.

TRUTH IN BUDGETING ACT OF 1982

Mr. PROXMIRE. Mr. President, I am introducing legislation to put the operations of the Federal Financing Bank in the budget of the United States. The Federal Financing Bank is a relatively obscure agency of the Treasury. It operates wholly outside the budget and the regular appropriations process, yet it holds $107 billion in outstanding loans and spends $20 billion a year. In just 8 years it has become the third largest bank in the United States; it will soon be the biggest.

The Federal Financing Bank was established by the Congress in 1973 in order to provide a more efficient method of financing Federal credit programs. The legislation creating the Bank was requested by Treasury officials who were concerned about the growing number of Federal agencies marketing their own securities in Government securities markets.

There were three ways in which Federal agencies were able to tap the Government securities market. The first was to issue their own debt securities. The proceeds from this borrowing would be used to finance the agency's program.

The second method was to sell loan assets or certificates of beneficial ownership in pools of loans held by the agency. These certificates were fully guaranteed by the issuing agency and were in reality another form of borrowing.

The third method was to guarantee securities issued by private lenders or other non-Federal entities and sold in securities markets. This financing method was typically used to finance large projects where banks or other lending institutions were reluctant to use their own money.

The end result of all this creative financing was to raise the cost of financing Federal programs. Because agency issues were often unfamiliar to investors and had complicated security provisions, they traded in thinner markets and at higher rates of interest, even though the credit risk was substantially equivalent to a U.S. Treasury security. In many cases the additional financing cost was ultimately paid by the Federal Government in the form of higher interest rate subsidies. Each agency had to employ their own separate financing staff, thereby adding further to the increased cost. Also, the marketing of new agency issues was often ill-timed with borrowing by the Treasury or other Federal agencies. For all these reasons, the Treasury concluded and the Congress agreed, that a central facility was needed to finance these separate programs.

The Federal Financing Bank Act of 1973—Public Law 93-224—established the Bank under the management of the Secretary of the Treasury. The Bank was authorized to purchase securities issued, sold, or guaranteed by a Federal agency. It was thus able to provide an alternative source of financing for the three principal methods by which Federal agencies had gained access to the Government securities market. The Bank would get its funds by selling its own securities in the market or by borrowing directly from the Treasury. By the end of fiscal year 1981, the Bank held $25 billion in agency debt securities, $52 billion in agency loan assets, and $30 billion in agency guaranteed loans for a total of $107 billion. All of these holdings were financed by Treasury borrowing.

WHY WAS THE BANK PLACED OFF-BUDGET?

Section 11(c) of the Federal Financing Bank Act provides that the receipts and disbursements of the Bank shall not be included in the totals of the budget of the U.S. Government. Why was this done? No clear reason is evident in the legislative history. The legislation, including the budget exemption, was drafted by the Treasury. There is no discussion of the exemption in the committee reports or the floor debates. In fact, there is no evidence that the Congress ever seriously reflected upon the budget exemption or considered its implications. It was largely regarded as a technical provision prepared by the Treasury experts.

To the extent there was any discussion at all on this point, it revolved around the notion that the Bank was not intended to affect the budgetary status of existing programs. As Treasury Under Secretary Paul Volcker stated in the hearings:

> The Federal Financing Bank is not a device to remove programs from the Federal budget; nor is it a device to bring programs back into the budget. The Bank would in no way affect the existing budget treatment of Federal credit programs. If a program is financed outside of the budget, the treatment would continue. If a program is now financed in the budget, that treatment would continue. The Bank is intended to improve the financing of all Federal agencies' borrowing activities, regardless of their budgetary treatment.

In a limited sense, the Bank did not change the existing budgetary treatment of Federal credit programs. If an agency was able to avoid being included in the budget by financing its program in the private securities market, it would continue to escape the budget if it financed its program through the Federal Financing Bank. The legislation establishing the Bank took for granted existing budget procedures; it did not examine the legitimacy of those procedures.

Such an approach was understandable since the concept of the Bank had already aroused the suspicion of Federal credit agencies and their allies in the Congress. Expanding the legislation to reform existing budgetary practices would almost certainly have insured its defeat. Nonetheless, those practices needed to be reformed in 1973 and the need is even greater today.

INADEQUACY OF CURRENT BUDGET CONCEPTS

Our present system for recording credit programs in the budget is derived from the President's Commission on Budget Concepts whose report in 1967 led to the establishment of the unified budget in 1969. Under these concepts, loan disbursements net of repayments are counted in the budget as an outlay. However, if the loan is sold to a private investor, the receipts from the sale can be used to offset the original outlay. Agency borrowing from either the public or the Treasury is treated as debt financing and cannot be used to offset loan outlays. Loan guarantees are not reflected in the budget since Federal funds are not directly involved unless there is a default.

The uniform budget concepts established by the Commission also attempted to close a loophole developed by several agencies in the 1960's for financing loan programs outside the budget. These agencies would finance their lending activity by selling participation certificates or certificates of beneficial ownership against pools of loans held by the agency. However, the agency would continue to hold and service the loan while guaranteeing the full payment of interest and principle on the certificate. In reality, these certificates were essentially a disguised form of borrowing. However, the agencies considered them to be asset sales and used the proceeds to offset the original loan outlays.

The President's Commission classified this type of financing as borrowing, thereby preventing agencies from reducing their budget outlays through the sale of certificates. Notwithstanding the establishment of these sound principles, the Farmers Home Administration was able to secure a special statutory exemption which provided that its certificates of beneficial ownership—CBO's—are to be treated as asset sales rather than borrowing—7 U.S.C. 1932(d)(b). As a result, the Farmers Home Administration can remove its loans from the budget by selling CBO's to the public.

Consider now the options for financing an additional $1 billion in loans by the Farmers Home Administration under current budgetary arrangements and without reference to the Federal Financing Bank. The first option is to make the loans with appropriated funds. Assuming there is still a budget deficit, Treasury would obtain the funds by issuing an additional $1 billion in Treasury securities to be sold in the Government securities market. The second method would

be for the Farmers Home Administration to raise the billion dollars by selling guaranteed CBO's in the same Government securities market. The third method would be to have a private lender make the loans with money obtained by issuing bond-type securities guaranteed by the Farmers Home Administration and sold in the same Government securities market.

All three financing methods are essentially the same. The money is raised in the same market, possibly from the same investors, and in each case the borrowing is backed by the full faith and credit of the Federal Government. and yet under current budgetary rules, only the first financing method would be counted in the budget. The second and third methods allow the additional billion dollars in lending to occur outside the budget. This example illustrates the inadequacy of current budget concepts and the need for a thorough revision.

The legislation establishing the Bank not only perpetuated but expanded the opportunities for offbudget financing. For example, an onbudget loan can now be removed from the budget by selling it to the Federal Financing Bank. In actuality, the loan is merely shuffled from one Federal agency to another Federal agency. Normally, the outlays arising from the loan would be deducted from the books of the agency selling the loan and added to the outlay totals of the agency buying the loan. But because the Federal Financing Bank is offbudget, the outlays do not appear in the U.S. budget.

Similarly, an offbudget loan made by a private lender and guaranteed by a Federal agency can be converted into an offbudget direct loan when it is sold to the Federal Financing Bank. In some cases, the loan is made directly by the Bank without any participation by a private lender. The borrower simply issues a promissory note that is then guaranteed by a Federal agency. The Federal Financing Bank buys the note and sends a check directly to the borrower. Although the transaction has all the characteristics of a direct loan, it appears totally outside the budget.

WHY THE BANK SHOULD BE IN THE BUDGET

Whatever the original reasons for placing the Bank outside the budget, there is no longer any justification for continuing the exclusion. The House Budget Committee and the General Accounting Office have studied the issue and both have concluded that the operations of the Bank should be in the budget.[1] Similarly, the Congressional Budget Office has extensively documented the distortions arising from the Bank's budget exemption.[2]

A budget serves two main purposes: First, it provides a complete and accurate recording of the total operations of the U.S. Government; second, it provides a rational method for allocating scarce resources among competing uses. Excluding the Federal Financing Bank from the budget violates both of these purposes.

Excluding the Federal Financing Bank from the budget misleads the public about the true size and scope of the Federal Government's activities. Had the operations of the Bank been included in the budget, total Federal outlays and the Federal budget deficit would have been $21 billion greater in fiscal year 1981. Instead of a $ 58-billion deficit, the real deficit was $79 billion.

The Reagan administration is planning to reduce the off-budget outlays of the Federal Financing Bank to $16 billion in fiscal year 1982 and to only $12 billion in fiscal year 1983. However, these projections must be taken with a considerable grain of salt. Actual outlays by the Bank over the last 5 years have increased at a rate of 29 percent a year. Moreover, during this same period, actual outlays have exceeded the initial budget estimate by 25 percent. Part of the reason is that the Office of Management and Budget has traditionally underestimated the volume of disaster loans made by the Farmers Home Administration and financed through the Bank.

The administration is also assuming the Appropriations Committees will drastically curtail credit activity under other credit programs administered by the Farmers Home Administration. Since most of the cost of these programs appears off-budget, there is little pressure on the Appropriations Committees to impose the cuts recommended by the administration. As a result, the off-budget outlays arising from the activities of the Federal Financing Bank are likely to persist at the $20 billion level over the next several years.

At a time when we are trying to reverse the relentless expansion of the Federal Government, we do not serve our purpose well by attempting to conceal $20 billion in additional deficit spending. This $20 billion must be borrowed by the Treasury along with the $90 to $100 billion needed to finance the recorded budget deficit. There is no difference in either type of borrowing; each has the same inflationary effect on financial markets and the economy. We are simply fooling ourselves and impairing our own credibility when we perpetuate these budgetary gimmicks.

The ready availability of off-budget financing through the Federal Financing Bank has also accelerated the growth of certain Federal credit programs that make heavy use of the Bank's facilities. In particular, the Farmers Home Administration, the Rural Electrification Administration, and the Foreign Military Sales program account for 88 percent of all the loans held by the Bank. These programs have grown rapidly since the Bank was established in 1974. For example, the Congressional Budget Office study reveals that since the Bank was established, the Rural Electrification Administration increased its annual lending by an average of 29 pecent a year, whereas prior to the Bank, the program grew at a rate of only 5 percent a year. Similarly, the rate of loan growth at the Farmers Home Administration jumped from 16 percent to 26 percent a year.

There is no doubt that most of these loans met important needs. However, because they are financed off-budget, the definition of need may not be as strict as the criteria used for on-budget programs. For example, in addition to helping small farmers, the Farmers Home Administration has financed office buildings, fast food stores, condominiums and large corporations such as Perdue Farms. Subsidized disaster loans have gone to wealthy borrowers without regard to their ability to obtain credit elsewhere. In some counties, delinquency rates are as high as 70 percent. And during 1980, when many homebuilders and auto dealers were going bust because of high interest rates, the REA launched a new program for making 5 percent loans to cable TV companies.

An argument can be made that most or all of this increased loan volume would have occurred outside the budget anyway, even without the Bank. In theory, an agency could have sold its loan assets or marketed the guaranteed securities in the private securities market, thereby escaping the budget. However, private financing would have been considerably more expensive and this increased cost might have acted as a brake on loan expansion. Moreoever, in certain cases such as the foreign military sales program, the feasibility of selling guaranteed bonds issued by developing nations is probably limited.

More importantly, the availability of off-budget financing distorts the budget allocation process regardless of whether that financing is conducted through the Federal Financing Bank or through the private securities market under existing accounting procedures. In either case, the off-budget credit programs are not subject to the same critical review we give to all of

[1] GAO report of August 3, 1977, PAD 77-70; House Budget Committee Report No. 95-1055 (1978).

[2] The Federal Financing Bank and the Budgetary Treatment of Federal Credit Activities (January 1982).

the programs that are in the budget. The off-budget programs have an edge; they do not have to compete for scarce budget dollars. As a result, there is a strong possibility that we have misallocated resources. This means that the American people are not getting the maximum benefit from their tax dollars. It also means that we in the Congress are not doing the job for which we were elected.

Another reason for putting the Federal Financing Bank in the budget is to preclude the Office of Management and Budget from manipulating the figures on the official budget deficit. The present system offers many tempting possibilities for reducing the size of the official deficit simply by changing the timing of transactions with the Federal Financing Bank. For example, when the budget is being prepared for the forthcoming budget year, OMB can estimate that the net volume of loan asset sales from the Farmers Home Administration to the Federal Financing Bank will be $2 billion less in the current year and $2 billion greater in the budget year. The effect of this simple change is to increase outlays and the deficit by $2 billion in the current year and to reduce outlays and the deficit by $2 billion in the budget year. Thus, by a simple wave of a magic accounting wand, total outlays and the deficit appear to decline by $4 billion from the current year to the budget year. In actuality, all that has happened is that the accounting entries have been changed. These manipulations would not be possible if the Federal Financing Bank were in the budget.

EFFECT OF PUTTING THE BANK IN THE BUDGET

Treasury officials have generally opposed putting the Federal Financing Bank in the budget even though the budget totals for the United States are seriously distorted by the exemption. Their argument is twofold. First, it is argued that a simple repeal of the budget exemption would result in the Treasury being charged for outlays and budget authority that should properly be attributed to the agencies initiating the transaction. If the repeal of the budget exemption were coupled with an annual appropriation to the Bank, its role would tend to change from a passive financing vehicle to an active allocator of credit among government programs. If the Bank did not have enough budget authority to meet all the claims made upon it, agencies would revert to selling their securities in the market, thereby resurrecting all of the problems that gave rise to the establishment of the Bank of 1973.

Second, the Treasury argues that the problem is not so much the off-budget status of the Bank, but rather the way certain programs are treated in the budget, particularly the favorable treatment given to CBO's issued by the Farmers Home Administration and the exclusion of guaranteed loans from the budget. Over $48 billion in Farmers Home Administration CBO's were financed by the Federal Financing Bank since its creation. About half of the $20 billion in off-budget outlays attributed to the Bank would be placed on budget and charged to the Farmers Home Administration if the special statutory provision defining CBO's as asset sales were repealed—assuming the Farmers Home Administration continued to use CBO's.

Eliminating the special exemption for Farmers Home Administration CBO's would still not close the guaranteed securities loophole which accounts for approximately one-half of the Federal Financing Bank's activity. Moreover, unless this loophole were closed, most of the loans financed by the Farmers Home Administration through the CBO route could be converted into loan guarantees and still be kept off budget. Therefore, repealing the special status of Farmers Home Administration CBO's would not, by itself, solve the problem. A more comprehensive solution is needed.

PROVISIONS OF THE LEGISLATION

The legislation I have introduced is designed to meet the arguments of the Treasury while still insuring that all of the Bank's present activity is properly recorded in the budget.

First of all, the legislation repeals section 11(c) of The Federal Financing Bank Act which places the Bank outside the budget.

Second, it authorizes the Director of the Office of Management and Budget to issue regulations to require that the outlays and budget authority arising out of the Bank's operations are charged to the appropriate Federal agency notwithstanding any contrary law or regulation. This would nullify the special treatment given Farmers Home Administration CBO's. It would also allow the OMB Director to charge the guaranteeing agency with the outlays and budget authority arising from the purchase of a guaranteed obligation by the Bank.

Third, it requires that no Federal agency may issue, sell, or guarantee a security of the type ordinarily financed in securities markets unless it is first offered for sale to the Federal Financing Bank. This provision is needed to prevent agencies from tapping the securities market directly as they did prior to 1973. The Secretary of the Treasury is authorized to determine by regulation the types of securities subject to this requirement and to waive the requirement where it is not an appropriate investment for the Bank. This requirement is not intended to apply to guarantee programs such as FHA or VA mortgage loans or similar loans which are financed by local lending institutions rather than in the Government securities market.

Fourth, the legislation will not become effective until fiscal year 1984. This will permit ample time for the Congress and the administration to adjust to the new ground rules. It will also avoid possible confusing changes in the budget for fiscal year 1983 which has already been submitted to the Congress.

The end result of my proposed legislation is to include in the budget all of the programs that are now financed off-budget through the Federal Financing Bank. The budget entries would appear in the accounts of the program agencies extending the loans or guarantees. These programs would be funded through the normal appropriations process where they would have to compete, dollar for dollar, with all other programs. The Congress and the people would get a true and accurate picture of the total size of the budget and the budget deficit. And the Congress would be in a better position to allocate budget dollars among competing programs in order to achieve the highest possible return.

RELATIONSHIP TO THE CREDIT BUDGET

Mr. President, I believe this legislation will supplement the credit budget legislation introduced in the Senate by Senator PERCY and in the House by Congressman MINETA. I strongly support this long overdue legislation and I hope that it can be enacted this year.

The credit budget legislation strengthens the credit budget system already developed by the Congress and the Carter and Reagan administrations for fiscal year 1981 and 1982. Under this system, the Appropriations Committees have established annual limitations on approximately 60 percent of the gross amount of new Federal credit activity while aggregate targets for all Federal credit activity are contained in the budget resolution.

The credit budget legislation requires Congress to establish a binding ceiling on the gross amount of Federal credit activity in the second concurrent budget resolution. The ceiling would include loan guarantees as well as direct loans. Under the present system, targets are established but they are not binding.

The legislation also makes available all of the enforcement procedures of the Congressional Budget Act in order to enforce compliance with the aggregate ceilings on credit activity. For example, it would not be in order to consider legislation providing new lending or guarantee authority if it would cause the aggregate ceiling to be exceeded.

The credit budget legislation also provides that legislation establishing new credit programs would not be in order unless it provided that the amount of credit assistance extended

must be approved in advance in an Appropriations Act.

While the credit budget legislation is needed, it does not solve all the problems regarding the proper budgetary treatment of Federal credit programs. Nor will it substantially curb the growth of credit programs beyond what would have been accomplished under the current system, at least for the first few years. While in theory, the Congress could curtail program growth by setting lower binding ceilings in the budget resolution, there are several practical reasons why this is unlikely to occur.

First, most of the focus of the Congress and the public has been on the regular budget deficit. It will be difficult to concentrate the same degree of attention on the size of the credit budget, at least until its size is perceived to be politically important. Since no revenues are included in the credit budget there are no surpluses or deficits by which to measure fiscal responsibility;

Second, Congress might find it hard to reduce aggregate ceilings because there is no body of theory for predicting the economic effect of an aggregate level of Federal credit activity. Indeed, any aggregate total is a composite of many separate progams with widely different economic effects. A program of 100 percent loan guarantees financed through the securities market probably has a much greater displacement effect than a 90-percent guarantee program financed through local lending institutions, yet both are given the same weight in an aggregate credit ceiling. A change in the mix of programs could have a much greater effect on financial markets and the economy than a change in the aggregate total.

Third, the very establisment of a separate credit budget outside the framework of the regular budget might reinforce the belief by some that credit activity is less costly than spending and does not require the same degree of restraint.

For all these reasons, there would be a tendency for the Congress to set aggregate credit ceiling high enough to accommodate most of the anticipated program growth, at least until it become more familiar with the concept.

In the meantime, Congress should not permit the formal establishment of a separate credit budget to divert its attention from closing loopholes in the regular budget. Credit programs need to be counted in both when they are financed with Federal dollars. Putting the Federal Financing Bank in the budget would plug the biggest loophole in the regular budget—a $20 billion loophole. I hope the legislation to accomplish this can be adopted this year along with the credit budget legislation.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be included in the RECORD at the end of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2162

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Truth in Budgeting Act of 1982".

REPEAL OF BUDGET EXEMPTION

SEC. 2. Section 11(c) of the Federal financing Bank Act of 1973 (Public Law 93-224) is repealed.

ASSIGNMENT OF BUDGET IMPACT

SEC. 3. The Federal Financing Bank Act of 1973 (Public Law 93-224) is amended by adding the following new section after Section 11:

"ASSIGNMENT OF BUDGET IMPACT

"SEC. 11A. The Director of the Office of Management and Budget is authorized to issue regulations providing that the budget authority and outlays arising from the Bank's operations shall be charged to the account of the appropriate Federal agency, and such regulations shall have precedence over any other provision of law or regulation to the contrary.".

SEC. 4. Section 7 of the Federal Financing Bank Act of 1973 (Public Law 93-224) is amended by adding at the end thereof the following:

"(d) A Federal agency may not—

"(1) issue or sell an obligation of a type which is ordinarily financed in investment securities markets unless that obligation is first offered for sale to the Bank; or

"(2) guarantee an obligation of a type which is ordinarily financed in investment securities markets unless the terms of the guarantee provide that it will cease to be effective if the obligation is held by any person or governmental entity other than the agency making the guarantee or the Bank.

The Secretary of the Treasury shall issue regulations to carry out the provisions of this subsection, and such regulations shall list the types of obligations to which this subsection applies. the Secretary may waive the requirements of this subsection with respect to types of obligations that the Secretary determines are not appropriate investments for the Bank.".

EFFECTIVE DATE

SEC. 5. (a) The amendments made by this Act shall take effect on October 1, 1983.

(b) The amendments made by this Act shall not be deemed to be superseded, modified, or repealed except by a provision of law which is enacted after the date of enactment of this Act, and which amends the Federal Financing Bank Act of 1973.

SECTION-BY-SECTION ANALYSIS—TRUTH IN BUDGETING ACT

Section 1. Short title. This section states that the legislation may be cited as the "Truth in Budgeting Act of 1982".

Section 2. Repeal of Budget Exemption. This section repeals Section 11(c) of the Federal Financing Bank Act. Section 11(c) now provides that none of the receipts and disbursements of the Bank shall be included in the totals of the budget of the United States government. Section 11(c) also provides that nothing in the Federal Financing Bank Act shall affect the budget status of the Federal agencies selling obligations to the Bank or the method of budget accounting for their transactions.

Section 3. Assignment of Budget Impact. This section requires the Director of the Office of Management and Budget to issue regulations assigning the budget authority and outlays arising from the Bank's operations to the appropriate Federal agency. These regulations would have precedence over any contrary law or regulation. This authority would enable the Director of OMB to classify the sale of all certificates of beneficial ownership to the Bank as borrowing. It would also permit OMB to charge the guaranteeing agency with the budget authority and outlays arising from the purchase of any guaranteed obligation by the Bank.

Section 4. Control of Marketable Obligations. This section prohibits Federal agencies from issuing or selling obligations of a type ordinarily financed in investment securities markets unless the obligation is first offered for sale to the Bank. This provision simply clarifies authority already possessed by the Secretary of the Treasury under Section 7(a) of the Federal Financing Bank Act to specify the source of financing of any obligation issued or sold by a Federal agency. The section also prohibits Federal agencies from guaranteeing any obligation of a type ordinarily traded in investment securities markets unless the guarantee stipulates is is valid only if the obligation is held by the guaranteeing agency or the bank.

The Secretary of the Treasury is required to list by regulations the types of obligations subject to the requirements of this section. The Secretary may waive the requirements for any obligations that the Secretary determines are not appropriate investments for the Bank. All of the Secretary's determinations under this section are intended to be at his sole judgment and are final and conclusive.

This section is not intended to apply to guarantees of loans made by local lending institutions and not financed in investment securities markets such as FHA or VA mortgage loans.

Section 5. Effective Date. This section provides that the legislation will become effective on October 1, 1983.

## ADDITIONAL COSPONSORS

S. 599

At the request of Mr. HAYAKAWA, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 599, a bill to amend the Internal Revenue Code of 1954 to provide for a definition of the term "artificial bait".

S. 705

At the request of Mr. DOMENICI, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 705, a bill to authorize the Secretary of Agriculture to convey certain National Forest System Lands, and for other purposes.

S. 1249

At the request of Mr. PERCY, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1249, a bill to increase the efficiency of Governmentwide efforts to collect debts owed the United States, to re-

quire the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States.

S. 1451

At the request of Mr. CANNON, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1451, a bill to amend the Internal Revenue Code of 1954 with respect to the exemption from tax of veterans' organizations.

S. 1532

At the request of Mr. HEFLIN, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1532, a bill to amend the Federal Rules of Criminal Procedure and the Federal Rules of Civil Procedure with respect to examination of prospective jurors.

S. 1589

At the request of Mr. HEFLIN, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 1589, a bill to improve the security of the electric power generation and transmission system in the United States.

S. 1630

At the request of Mr. THURMOND, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1630, a bill to codify, revise, and reform title 18 of the United States Code, and for other purposes.

S. 1825

At the request of Mr. ARMSTRONG, the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1825, a bill to prohibit price support for crops produced on certain lands in the western part of the United States which have not been used in the past 10 years for agricultural purposes, and for other purposes.

S. 1942

At the request of Mr. EAST, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1942, a bill to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes.

S. 1958

At the request of Mr. DOLE, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 1984

At the request of Mr. MCCLURE, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1984, a bill to amend the Federal Trade Commission Act to protect the legislative and regulatory authority of the State legislatures, and for other purposes.

S. 2016

At the request of Mr. LUGAR, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2016, a bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits.

S. 2027

At the request of Mr. ROBERT C. BYRD, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2027, a bill to provide for an accelerated study of the causes and effects of acid precipitation, to provide for an examination of certain acid precursor control technologies, and for other purposes.

S. 2094

At the request of Mr. DANFORTH, the Senator from Michigan (Mr. RIEGLE), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2094, a bill to amend the Trade Act of 1974 to insure reciprocal trade opportunities, and for other purposes.

SENATE JOINT RESOLUTION 138

At the request of Mr. ROBERT C. BYRD, the Senator from New York (Mr. D'AMATO) was added as a cosponsor of Senate Joint Resolution 138, a joint resolution to authorize and request the President to designate the week of April 18, 1982, through April 24, 1982, as "National Coin Week."

SENATE JOINT RESOLUTION 143

At the request of Mr. THURMOND, the Senator from Wisconsin (Mr. KASTEN), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Joint Resolution 143, a joint resolution to authorize and request the President to designate the week of May 2 through 8, 1982, as "National Physical Fitness and Sports for All Week."

SENATE JOINT RESOLUTION 145

At the request of Mr. HEINZ, the Senator from Washington (Mr. JACKSON) was added as a cosponsor of Senate Joint Resolution 145, a joint resolution authorizing and requesting the President to proclaim "National Orchestra Week."

SENATE RESOLUTION 21

At the request of Mr. HAYAKAWA, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Resolution 21, a resolution to commend James duMaresq Clavell for his contributions to literature.

SENATE RESOLUTION 231

At the request of Mr. PERCY, the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of Senate Resolution 231, a resolution regarding the management of U.S. assets.

AMENDMENT NO. 1235

At the request of Mr. HEFLIN, the Senator from North Carolina (Mr. HELMS), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of Amendment No. 1235 proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

## SENATE RESOLUTION 329—RESOLUTION RELATING TO THE HOUSING INDUSTRY

Mr. ROBERT C. BYRD submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 329

Whereas the Nation's housing industry has been a cornerstone of our economy since the great depression, accounting for jobs in construction, sales, manufacturing, and services, and has direct or indirect effects on nearly one quarter of the economy;

Whereas the Nation's housing industry is suffering from a depression unknown in post-World War II American history;

Whereas young couples can no longer afford the great American dream of private homeownership;

Whereas those who already own homes must watch the value of their investment erode as sales drop;

Whereas housing sales, starts, and construction spending are all down, while mortgage rates continue to rise;

Whereas substantial budget cuts in housing programs were made in the fiscal year 1982 budget; and

Whereas our Nation's historic commitment to housing is severely threatened, and cuts in housing programs would send a chilling signal through the housing markets: Now, therefore, be it

*Resolved*, That there shall be no further reduction in Federal support for housing, and that no additional cuts shall be made in the authorities of the Federal Housing Administration and the Government National Mortgage Association, or in the levels of the rural housing and the elderly or handicapped programs, which further reduce access to decent housing for middle and lower income Americans.

(The remarks of Mr. ROBERT C. BYRD on this legislation appear earlier in today's RECORD.)

## SENATE RESOLUTION 330—RESOLUTION RELATING TO MARTIAL LAW IN POLAND AND THE RELEASE OF LECH WALESA

Mr. HEINZ (for himself, Mr. PERCY, Mr. HATFIELD, Mr. QUAYLE, Mr. DOMENICI, Mr. EAST, Mr. MOYNIHAN, Mr. D'AMATO, Mr. RIEGLE, Mr. SARBANES, Mr. WILLIAMS, Mr. MURKOWSKI, Mr. HAYAKAWA, Mr. ROTH, Mr. INOUYE, Mr. LEVIN, Mr. KENNEDY, Mr. GARN, Mr. GRASSLEY, Mr. DODD, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. MATTINGLY, Mr.

COHEN, Mr. HOLLINGS, Mr. MITCHELL, Mr. THURMOND, Mr. KASTEN, Mr. DANFORTH, and Mr. ROBERT C. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 330

Whereas the American people sympathize deeply with the struggle of the Polish people to create indigenous democratic institutions including independent trade unions which reflect their own history and values;

Whereas the American people and the citizens of Poland have traditionally shared a close and lasting bond that has been strengthened by the establishment of the independent Solidarity trade union movement;

Whereas Lech Walesa the leader of the Solidarity movement, has been recognized both within Poland, and throughout the rest of the world, as the single most important and influential leader of the Polish workers, and of all those who seek democratic reform in Poland;

Whereas Solidarity represents an independent trade union that is supported by the overwhelming majority of the people and is trying to form a mutually beneficial relationship between government and workers;

Whereas Poland is a signatory to the Helsinki Final Act of 1975 which obligates the signatories to respect and maintain conditions of freedom and diversity within their respective countries;

Whereas approximately two months have passed since the imposition of martial law in Poland which has resulted in the incarceration of thousands, including Solidarity leader Lech Walesa;

Whereas no useful and reliable information has been made available by the Polish government regarding the whereabouts or condition of Lech Walesa; and

Whereas the continuing detention of Lech Walesa is a clear violation of the Helsinki Final Act, to wit, that participating States "will respect human rights and fundamental freedoms."

Therefore, be it *Resolved*, That it is the Sense of the Senate that:

Lech Walesa as well as others detained for political acts be released from detention forthwith;

Lech Walesa and other Solidarity members be permitted to participate in ongoing discussions and negotiations concerning the future of Solidarity, as well as the future of democratic reform in Poland;

Lech Walesa and other Solidarity members be permitted to comment on the situation in Poland, and allowed to travel freely both within Poland and abroad.

## AMENDMENTS SUBMITTED FOR PRINTING

### ADMINISTRATIVE PROCEDURE ACT AMENDMENTS

AMENDMENT NO. 1332

(Ordered to be printed and to lie on the table.)

Mr. SASSER (for himself, Mr. SPECTER, and Mr. DURENBERGER) submitted an amendment intended to be proposed by them to amendment No. 640 to the bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations, and for other purposes.

SOURCES OF FUNDING

● Mr. SASSER. Mr. President, today, I submit printed amendment 1332 to S. 1080, the Regulatory Reform Act, as amended by consensus substitute amendment No. 640, printed in the CONGRESSIONAL RECORD on November 30, 1981. This amendment is cosponsored by my distinguished colleagues, Senator ARLEN SPECTER and Senator DAVID DURENBERGER.

My amendment requires that the preliminary regulatory analysis accompanying a proposed major rule contain a statement identifying any sources of funds available from the Federal Government to pay the costs the rule would impose on State or local government budgets.

This provision was approved unanimously by the Governmental Affairs Committee but it was not included in the consensus version of S. 1080. With the concurrence of Senators LAXALT, LEAHY, ROTH, and EAGLETON, I am presenting this amendment to restore the Governmental Affairs Committee language to the Regulatory Reform Act of 1982.

I am pleased to note that Senator ARLEN SPECTER is joining me in sponsoring this amendment, which is patterned after his bill, S. 1225, the State and Local Regulatory Cost Act. Senator SPECTER introduced his measure after he was contacted by townships in Pennsylvania about the expensive, and often unmanageable, regulations imposed upon them by the Federal Government.

Senator DAVID DURENBERGER, the distinguished chairman of the Intergovernmental Relations Subcommittee, is also cosponsoring this measure to improve intergovernmental regulation.

The International Personnel Management Association (IPMA) executive council has endorsed my amendment concerning regulatory cost estimates, as it was originally introduced, to S. 1080. Following, without objection, is the letter from Barbara L. Sundquist, the president of the IPMA, advocating the inclusion of this language in the Regulatory Reform Act of 1981.

I also request unanimous consent that my amendment No. 1332 be printed in the RECORD following Ms. Sundquist's letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL PERSONNEL MANAGEMENT ASSOCIATION,
*Washington, D.C., December 3, 1981.*

Senator JAMES R. SASSER,
*Senate Intergovernmental Relations Subcommittee, Washington, D.C.*

DEAR SENATOR SASSER: The Executive Council of the International Personnel Management Association (IPMA) voted on October 3, 1981 to endorse the "State and Local Government Regulatory Cost Estimate Act of 1981" (S. 1225). The Association believes there is a need for federal agencies to consider the financial impact which proposed regulations would have upon state and local governments. This need has existed for a long period of time and is certainly accelerated during this period of reduced federal assistance coupled with the desire to shift greater responsibility for federal programs to the state and local levels of government.

The International Personnel Management Association (IPMA) is an organization representing more than 1,000 member agencies including civil service commissions, merit system boards and personnel departments at the federal, state and local levels of government. The Association, which was established in 1973 through the consolidation of the Public Personnel Association (founded in 1906) and the Society for Personnel Administration (founded in 1937) represents over 55,000 individuals, primarily personnel professionals and personnel administrators in the public sector. IMPA attempts to foster and develop interest in sound personnel administration by providing a focus and forum for personnel professionals throughout the United States and abroad.

Our Association supports the inclusion of the provision in the legislation which would require federal agencies to request comments from state and local governments on the costs which they would incur as a result of a proposed regulation. The Association does hope that if this legislation is approved, Congress will take steps to ensure, that based upon this provision, state and local governments will be provided with a meaningful opportunity to participate in the regulatory process. Our Association has experienced a large degree of inflexibility on the part of federal agencies after a proposed rule has been published in the Federal Register, despite the request by the issuing agency for comments.

The Association comments the Committee on Governmental Affairs for including this legislation as an amendment to the "Regulatory Reform Act of 1981" (S. 1080). We hope the full Senate will ratify the action of the Committee on Governmental Affairs when it considers the regulatory reform legislation. If the Association can be of any assistance, please do not hesitate to contact Neil E. Reichenberg, director of Governmental Affairs, 1850 K Street, N.W., Suite 870, Washington, D.C. 20006, (202) 833-5860.

Sincerely,

BARBARA L. SUNDQUIST,
*IPMA President.*

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On page 18, between lines 19 and 20, insert the following:

(D) a statement—(i) identifying any source of funds available from the Federal Government to pay State and local governments the costs incurred by such governments as a result of the proposed rule; or (ii) specifying that the agency does not know of any such source;

On page 18, line 20, strike out "(D)" and insert "(E)".

On page 19, line 1, strike out "(E)" and insert "(F)".●

## NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. COHEN. Mr. President, I would like to announce for the information

of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for March 11, 1982, beginning at 10 a.m. in room 424 of the Russell Senate Office Building. Testimony is invited regarding H.R. 3731, an act to amend the act of October 19, 1973, relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the court of claims; and, committee consideration of report to the Budget Committee.

For further information regarding the hearing you may wish to contact Timothy Woodcock of the committee staff on 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate at 9 a.m. on Tuesday, March 2, to hold a hearing on the President's federalism initiatives and to discuss the nominations of John McKeon, to be on the Board of Governors of the Postal Service; Henry Folsom, to be a member of the Postal Commission; and John Crutcher, to be a member of the Postal Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Tuesday, March 2, at 9 a.m., to hold a hearing to discuss safe-harbor leasing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Agriculture Committee be authorized to meet during the session of the Senate at 9:30 a.m. on Tuesday, March 2, to discuss the reauthorization of the Commodity Futures Trading Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WEICKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, March 2, at 2 p.m., to hold a hearing relating to the Corps of Engineers budget request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WEICKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 2, at 2 p.m., provided the Senate is not debating the conference report on S. 1503, to hold a business meeting to consider the committee's March 15 report to the Senate Budget Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### ARKANSAS CELEBRATES LILY PETER'S DAY

● Mr. PRYOR. Mr. President, Arkansas honors one of its finest citizens today as our State celebrates Lily Peter's Day. This remarkable woman—farmer, businesswoman, author and poet, patron of the arts, and a strong supporter of the political process—is being feted by a Helena, Ark., celebration which includes a banquet, reception, and symphony orchestra performance.

A number of newspapers in the mid-South area have recognized Lily Peter's contributions to our State and I submit those tributes for the RECORD.

Mr. President, I want to join the scores of people all across Arkansas and the Nation who pay tribute to this great American. This tribute is most deserved and long overdue. We in Arkansas are better for having had Lily Peter in our midst.

The tributes follow:

[From the Helena World, Feb. 21, 1982]

MISS LILY—GENEROUS, GRACIOUS, SMART

(By Dave Farnham, Editor)

(Phi-lan'-thro-pist 1. Someone with an inclination to increase the well-being of mankind, as by charitable aid or donations. 2. A person who loves mankind in general. 3. One whose actions are designated to promote human welfare.)

Her surroundings are simple, practical, and, she admits, a little cluttered.

There are books everywhere, on shelves and spilling over and up the backs of living room furniture.

There are pictures of family and friends, and even a few of herself, on most of the walls and lined up on tables and desks where she greets her many visitors.

The home would fit easily and without fanfare into a middleclass neighborhood and the trees and bushes and hedges that almost hide the home from passersby on Connell's Point road are far from manicured.

It is apparent, in fact, that neither inside or outside has there been any enthusiastic effort to expose to the unknowing the wealth or the status of the persons inside.

The trappings of the rich, the need to display one's material acquisitions, are clearly unnecessary. They would be an intrusion, a shameful distraction.

And it all seems perfectly right, as though it should be no other way, because any preoccupation with "things" would be a sad detraction from what Miss Lily Peter truly represent.

Take note of some of the facets of life that are most important to Miss Lily: the continuous, unhampered, and relentless use and reuse of her own mind; the desire to see that as many of those with talent are able to pursue their vocations without financial concern; and bringing the excitement of fine literature, music and art to the notice of people throughout Arkansas, but most especially to her neighbors in Monroe and Phillips counties.

It is the quickness, depth, and scope of Miss Lily's mind that grab you almost immediately.

She speaks at a fast pace, as though fearful somehow that she will be unable to unveil all the thoughts and ideas that are rushing about in her head. She leaps from one subject to another, a line from a poem (one of her many own published works or that of another author) can be triggered into her awesome memory by the most innocuous of discussions.

It is putting pen to paper, transforming the vast storehouse of knowledge and understanding that she possesses into a wickedly clever or winsomely beautiful poem, at which Miss Lily is most skilled.

She has written three books: "The Green Linen of Summer", a series of short poems; "The Great Riding", an epic poem dedicated to Hernando DeSoto, the Spanish explorer, stories about whom captured Miss Lily's attention and her youthful, romantic heart at the age of seven; and "The Sea Dream of the Mississippi", a short history of the Joliett-Marquette expedition she wrote in conjunction with the 1973 re-enactment of that southward exploration of the "Great River."

THE GREEN LINEN OF SUMMER

"I wrap my thoughts in the green linen of summer
Against the terror of the dragon wind
And pray that the linen may not too soon be thread bare.
Its texture thinned
For by and by I know will come November
With its wintry blast
And what is there to keep body and soul from freezing
If the linens do not last?"

Seven other manuscripts await publishing. They are "The Mad Queen", a poetic tribute to Miss Lily's fascination with mathematics; "News from Camelot", "Delta Country", "Earth Shadow", "Sunlight on an Old Rail Fence", "Panels of Antiphon", and "Johnny-Jump-Ups and Joe-Pye-Weed."

But Miss Lily is as great a lover of music as she is a respected author of both poetry and prose. This great passion for music has been intensfied, perhaps, because Miss Lily was denied the childhood training that probably would have made her an accomplished musician. It is obvious that she feels that was a personal loss.

"As a performer of music I am zero," she says. "In the backwoods of Arkansas (where she grew up) there were no music teachers. If you have a great voice you can wait but for the piano or a string instrument you must start very young. I only saw one piano (an aunt's) until the time I was twelve."

It explains, in part, why she putters with Chopin almost daily on the Baldwin Grand

piano that dominates the living area of her home; why she has helped bring so many nationally and internationally renowned musicians and vocalists to the state and to Phillips County and why she was so intensely involved in bringing about the construction of the Fine Arts auditorium on the campus of Phillips County Community College.

As most everyone knows, that auditorium, one of the finest in Arkansas, bears her name. It bears her name because it almost certainly would not exist today without the personal and financial role she played in spearheading the drive to have it built.

The total color and detail of Miss Lily's life couldn't be captured in one or even a series of newspaper stories. It would take a book and one is in the works.

Miss Lily says that she is "officially thirty years old", because that's the age at which her mind has settled in terms of knowledge and understanding. There is a spark of anger in her eyes when she talks to people who would put someone on the shelf, simply because of their age . . . no matter that their energy and capacity for inhaling new information and imparting fresh insights are as keen as ever.

She does what she does for fun, she says, "accepting what's possible and not worrying about what's not possible."

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[From the Arkansas Democrat, Feb. 24, 1982]

COUNTY LAUDS GENEROSITY OF FARMER-PHILANTHROPIST

(By Randy Tardy)

HELENA.—Lily Peter, the Phillips County farmer-philanthropist, will be honored Monday at Helena by the Phillips County Chamber of Commerce.

Gov. Frank White has proclaimed Monday as "Miss Lily Peter Day" in Arkansas in recognition of the state's poet laureate for 10 years who has acquired a well-known reputation for her generous feats, cultural and otherwise.

According to Charles Fite, executive director of the Phillips County Chamber of Commerce, a banquet in Miss Peter's honor will begin at 7 p.m. Monday in the community center at Phillips County Community College. A special concert by seven members of the Arkansas Symphony Orchestra will follow at 8 p.m. A reception will precede the dinner.

Tickets, priced at $14, are available from the Phillips County Chamber of Commerce at Helena and from banks in Helena, West Helena, Maxwell and Elaine.

"Turning Cotton Into Culture" will be the theme of the program.

"We're really going to have a great day for Miss Lily," Fite said last Monday at the chamber of commerce office. "She's done so many things for Phillips County. . . ."

One thing she did was to bring into reality the place where she will be honored Monday night.

"She spearheaded the drive for the Phillips County Community Center at the college," Fite said. "She raised $300,000 and she made a substantial contribution herself." The big building's 1,200-seat auditorium was described by Fite as "one of the finest auditoriums anywhere."

He said that when famed pianist Van Cliburn played the dedicatory concert there a few years ago, "he said the auditorium had the best accoustics of any he had ever played in."

That part of the center, appropriately, is named the Lily Peter Auditorium.

"Miss Lily," the name everyone calls her, owns and farms "probably 5,000 to 10,000 acres of land," Fite estimated. And citing a little-known economic development example of her generosity, he said Miss Lily was instrumental in keeping The National River Academy, a waterway training school, from leaving the area.

"She helped save the National River Academy from leaving here a few years ago in that she paid for a small sewer treatment plant down there," Fite said. "She gave a check to one of the board members, Jim Walden (owner of Helena Marine Service Inc., a towboat firm) to take to New Orleans to a board meeting when they were voting on whether or not they were going to move from Helena. She gave him a check for $25,000 to take to the board meeting. Then she added another $40,000 to that later on."

The school which is funded by private industry, remains at Helena today, although training has been temporarily suspended because of the recession.

Fite said that, while the chamber of commerce "never has been able to get her interested in economic development," per se, her generosity has provided the Helena area with a cultural facility second to none. That, he said, is something industrialists look for in a community, along with sites, labor and taxes.

"I think it is pretty important," Fite said. "That is one of the things that we really boast about when we're talking to industrial prospects or out-of-town people—that we have one of the finest cultural centers in the country and some of the finest entertainment. Last Thursday night (Feb. 18) we had the New Orleans Philharmonic" perform in the Lily Peter Auditorium.

Buff Brothers, president of the chamber of commerce will welcome those attending the dinner. Mrs. Tom Faust of Helena will serve as mistress of ceremonies. "The governor's proclamation will be read by a representative from the governor," Fite said. Mrs. Robert Howe will recite "The Green Linen of Summer," one of Miss Lily's poems, and Bob Evans, a Helena native, will sing his own composition, "Phillips County Blues."

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[From the Commercial Appeal, Feb. 24, 1982]

HELENA CELEBRATION PLANNED FOR MULTIFACETED LILY PETER

(By Robert Jennings)

One of the remarkable women of the Arkansas Delta (or anywhere else) in our time (or any other) will be honored Monday. It will be Lily Peter Day in Helena. Buff Brothers, president of the sponsoring Phillips County Chamber of Commerce, notes that "a reception and banquet will be given in her honor at the Phillips County Community College at 6:30 p.m. Following the banquet all guests may join Miss Lily in the auditorium" (the Lily Peter Auditorium, that is) "for a free concert. This will be an hour of music featuring a quintet from the Arkansas Symphony Orchestra."

Lily Peter is a citizen of two Arkansas counties. She lives in Monroe County just across the line from Phillips County, and she farms land—3,000 rich acres of it—in both counties. She is a tiny woman of an age that one might discreetly call indeterminate. Her list of interests and accomplishments is imposing. Prominent among them is her affection for music and her generosity in paying for its performance and even for a place it can be fittingly played.

Among her notable contributions was $35,000 to the fund-raising campaign for the arts center theater that bears her name at the college. She was chairman of the fund drive. Some years before that she brought the Philadelphia Orchestra to Little Rock.

At the time—June 1969—the trip was the longest the venerable Philadelphia Orchestra ever had made for only two performances. Miss Lily priced the tickets at $5, $4, and $3, a decidedly low level even for 12½ years ago, and paid for her own seat. Despite that modest cost of admission to Robinson Auditorium to hear Eugene Ormandy and his men, Miss Peter's concerts grossed $17,643 in ticket sales. She put $2,357 with it and set up music scholarships of $10,000 each at Arkansas State University and the University of Arkansas.

The concerts were a feature of the Arkansas Territorial Sesquicentennial. Miss Lily was music chairman of the observance. She wanted to do her part because she said she was not confident that she would be alive in 1986 for the sesquicentennial of Arkansas statehood, as opposed to the Arkansas Territory's 150th anniversary.

She has paid for any number of other musical endeavors and, true to her wide-ranging interests, has donated 40 acres of virgin timber land to the state of Arkansas as a bird refuge and made substantial contributions to the financing of medical conferences. She also is a poet, composer, author, violinist, historian and photographer among other things, such as farmer and ginner.

"There was one thing I wanted to be," Miss Lily said a few years back, "and that was a great violinist. But we were so far back in the country in those days. There were no roads and you were well off if you had a buggy. So by the time I had the opportunity, I was too old."

Be that as it may, there are those who would be totally unsurprised if they learned that Miss Lily had brushed up on her violin, maybe even taken more lessons, and is going to perform a recital.

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[From the Twin City Tribune, Feb. 24, 1982]

MISS LILY'S "DAY" SET MONDAY

Monday is a red-letter day for Phillips County.

It's the day that Phillips Countians have chosen to honor Miss Lily Peter of Marvell, the philantropist who has contributed so much of her time, money and efforts for the betterment of the county and its citizens.

It's "Miss Lily Peter Day"—not only in Phillips County but throughout Arkansas, a day officially proclaimed by Governor Frank White in ceremonies last week at the Capitol.

And it's all in recognition of the contributions "Miss Lily", a poet, farmer, and lover of the arts, has made to the state.

For several years now, a group of Phillips Countians have felt that the Marvell lady, who has sponsored so many worthwhile events in the county and around the state, should, somehow, be shown she was in the thoughts of all. Governor White agreed and so designated March 1 as the date to honor the state's poet laureate.

As plans now stand, a delegation of Phillips Countians will form a caravan Monday afternoon and go to the home of Miss Lily near Marvell and pick her up.

They will return to the Twin Cities, where the motorcade will tour the city, giving the guest of honor plenty of time to see her many friends throughout the two cities and view some of the changes she had a hand in.

At 6 p.m. that evening, a reception is scheduled in Miss Lily's honor at Phillips County Community College. At that time,

Miss Lily will be in the receiving line to shake hands and talk with all of her friends.

After the reception, a banquet is scheduled. At this time, the multitude of friends and acquaintances from Arkansas and other states will be given the opportunity to pay tribute.

"We've received literally dozens of letters from friends and admirers of Miss Lily who will be unable to attend the event," said Charles Fite, executive director of the Phillips County Chamber of Commerce. "We plan to read some of those during the banquet."

Tickets for the banquet are on sale for $15 each and can be obtained from the chamber of commerce of any Phillips County bank.

"We'd like to see the Phillips College cafeteria filled to over-flowing that night," said Mrs. Betty Faust, one of the chairmen for the Miss Lily Day Committee. "It's not often that we get an opportunity to say thank you to a person who has done so much for our community and our state."

She emphasized that, even if, for some reason, persons are unable to make the banquet, they can still attend the concert—free of charge.

The concert will follow the banquet and will feature the string quintet from the Arkansas Symphony Orchestra.

"It is free for all who would like to attend," said Mrs. Faust. "And nothing would delight Miss Lily more than to see the string quintet play to a full house."●

## PLURALISM IS THE AMERICAN WAY

● Mr. WEICKER. Mr. President, I admire the candor, courage, and political commonsense displayed by the Senator from Oregon in the Associated Press interview which appeared in today's Washington Post.

America was not conceived as a haven for any one kind of person. It has drawn to its shores people of all creeds and colors. And there is no doubt in my mind that we are much the stronger for it. If we try to reduce the American experience to some kind of wild west existence where only the fittest of the white men survive, we do ourselves and our Nation a great injustice.

Pluralism is the American way. So it must be the Republican way, if our goal is to become the majority party. We must be more than the party of the white male Protestants. Rather, we must be the party of all the people, women, blacks, Hispanics, and Jews alike.

The great contralto Marian Anderson once observed that "as long as you keep a person down, some part of you has to be down there to hold him down, so you cannot soar as you otherwise might." The same is true of the Republican Party.

If through a policy of overt discrimination, or even one of benign neglect, we fail to bring men and women of all races and religions into the political and economic mainstream, we as a party will never achieve the heights of which we are capable. I commend Senator PACKWOOD for eloquently articulating this fact and urging the rest of us to face up to it.

I submit his full remarks for the RECORD.

The remarks follow:

PACKWOOD SAYS REAGAN'S VISION HURTS GOP

(By Donald M. Rothberg)

WASHINGTON.—A senior Republican Senator says he and other GOP leaders sometimes are dismayed in their meetings with President Reagan because he responds to their concerns "on a totally different track" than the issue at hand.

For example, when the Senate budget chairman recently expressed consternation with a deficit exceeding $100 billion, the President told an anecdote about someone buying vodka with food stamps, according to Bob Packwood, who heads the Senate Republican Campaign Committee.

Reagan concluded the story with "That's what's wrong," said Packwood.

"And we just shake our heads," the Senator added.

Packwood attributed the problem to what he termed an "idealized concept of America," by Reagan that is basically white, male and Protestant. And that view, the Oregon Senator said, is destroying the GOP's appeal among blacks, Hispanics and Jews.

"That will hurt us more in the long run than the economy," Packwood told the Associated Press in a weekend interview.

He said he feared that Reagan's positions on abortion, the Equal Rights Amendment and the handling of tax exemptions for schools that discriminate by race will cause lasting damage to the party.

"The Republican Party has just about written off those women who work for wages in the marketplace," Packwood said. "We are losing them in droves. You cannot write them off and the blacks off and the Hispanics off and the Jews off and assume you're going to build a party on white Anglo-Saxon males over 40.

"There aren't enough of us left," he said.

When asked if he thought Reagan was aware that might be happening, Packwood, who supports abortion and the ERA, said he attends GOP leadership meetings at the White House "and that's where I've gotten the best insight."

"I'll see Bob Michel (Republican leader in the House) throw something out," he said, "and then the President will respond on just a totally different track.

"Pete Domenici (chairman of the Senate Budget Committee) says we've got a $120 billion deficit coming and the President says, 'You know a person yesterday, a young man went into a grocery store and he had an orange in one hand and a bottle of vodka in the other, and he paid for the orange with food stamps and he took the change and paid for the vodka. That's what's wrong.'

"And we just shake our heads," said Packwood.

"I really think the President has an idealized concept of America," the Senator said. "And maybe many Americans wish we were like that. Maybe, many Americans wish we all looked alike, went to the same middle-of-the-road Protestant church, and we'd all be better off. I don't think we would be better off."

Although less than 1 percent of Oregon's population is black, Packwood said he is getting "great quantities of mail complaining" about the administration's decision to stop withholding tax exemptions from schools that practice racial discrimination.

"It's coming from whites who are offended by what appears to be the unfairness of it . . .," he said. "For the administration to make the decision it did and not grasp the political implications of it is incredible."

Reagan explained the decision by saying he felt it was wrong for an administration to deny the tax exemptions without a specific congressional mandate.

On abuses in food stamp or welfare programs, Packwood said many Americans encounter such individual cases.

"And they generalize from it," he said, "and the generalization is the false part. Indeed, the specifics are there, indeed, the abuses are there, but that is not the general problem."

Asked if he thought the President should make that distinction, Packwood replied, "No."

"Once you're President . . . everything that you learn is filtered," he said. "Somebody sanitizes the paper for you, cuts out the stories to read, hopefully representative, maybe, not . . .

"And so, the views you held when you became president are probably the ones you're going to hold for the rest of your life. That's true of most of us when you get the 35, 40 or 45."

Nonetheless, Packwood said he thinks Reagan "still has an amazing popular appeal" and can win re-election overwhelmingly. But that's different from building a majority Republican Party, he said.

"What I want," Packwood said, "is when people go down the list and finally come to the office they've never heard of and candidates they've never heard of, that they vote Republican because they have an intuitive feeling that the Republican Party is watching out for their interests.

"That's what I don't see yet and I don't see that building now in the Republican Party. I think we were closer to it in November 1980 than we are now."

Packwood was a leader of the Senate opposition to the sale of $8.5 billion in arms, including AWACS radar planes, to Saudi Arabia. After a long, often bitter fight, the President prevailed and the sale went through.

"I think as far as he's concerned, it's over," Packwood said, adding that Reagan has not mentioned the AWACS sale to him since. "As far as I'm concerned it's over."

But Packwood again finds himself on the opposing side from Reagan as the Senate debates the so-called social issues.

"If the President tries as hard on the social issues, as he did on AWACS," Packwood said, "then, I think he's leading us to disaster."●

## THE RECORD ON THE EXECUTIVE OVERSIGHT PROVISIONS OF THE REGULATORY REFORM ACT

● Mr. GLENN. Mr. President, in my February 3, 1982, Dear Colleague letter soliciting cosponsors for the Glenn amendment to the Regulatory Reform Act, I stressed the lack of virtually any legislative record for the bill's executive oversight provisions, the provisions that would dramatically and indiscriminately undermine the autonomy of the independent regulatory agencies. I would like to elaborate on this point.

In considering S. 1080, neither of the two Senate committees involved—Judiciary and Governmental Affairs—held any hearings whatsoever on the question of how expanded Presidential oversight under the bill's section 624 (Executive oversight) would affect the independent agencies and their respective spheres of regulation. Indeed, the overall subject of Presidential oversight of the independents was mentioned only passingly in the prepared statements of two witnesses and in a brief colloquy during the Judiciary Committee's May 14, 1981, hearing. In both committees, the Executive oversight provisions of the bill were added after the hearings had concluded and were thus not part of the next of S. 1080 to which hearing witnesses were asked to address themselves. The sole substantive testimony on section 624's impact on the independent agencies is a series of letters received from the latter in response to inquiries sent out by Governmental Affairs Committee Chairman ROTH at my request. These letters, excerpts from which were included with my Dear Colleague on my amendment, unanimously opposed Executive oversight under section 624 as a serious intrusion on agency independence.

Partly on the basis of these letters, I introduced an amendment to S. 1080 to limit the impact of section 624 on the independent agencies. The amendment was unanimously accepted in the Governmental Affairs Committee. The issue was not debated in the previous Judiciary Committee markup, however. Thus the only committee to take up an amendment specifically on this question strongly rejected the section's weakening of independent agency autonomy. (My amendment has been dropped from the composite text of S. 1080 that will be taken up on the Senate floor and will have to be reintroduced.)

During the 96th Congress, the question of increased Presidential supervision over the independent agencies was discussed in the course of Senate Judiciary and Governmental Affairs Committees' hearings held in mid-1979—more than 2 years ago. However, that debate focused on proposals for increased executive oversight different from those contained in S. 1080. The Carter administration's bill (S. 755), for example, sought Presidential power only to gather data on independent agency compliance with cost-benefit procedures; S. 755 did not contemplate Presidential screening of draft independent agency major rules without fixed time limits. The proposal on which the American Bar Association testified, to cite a second example, was the so-called Cutler-Johnson arrangement under which the President for a 70-day period could require agencies (the independents included) to reconsider their major rules after issuance. This differs markedly from the current text of section 624 which contemplates prepublication Presidential involvement in the regulatory process without clear deadlines. Moreover, the ABA proposal included specific exemptions for:

> Those agencies and functions (e.g., the moneymarket functions of the Federal Reserve Board, the campaign financing functions of the Federal Elections Commission, the FCC's "equal time" and fairness doctrines, licensing and rate-making) as to which a broad consensus exists that they should remain free of Presidential influence. (1979 ABA Federal Regulation Report, p. 85.)

Section 624, by contrast, is comprehensive and indiscriminate: all major rules of all independent agencies would be subject to Presidential review. Let me also point out that during the 96th Congress the Cutler-Johnson approach was resoundingly defeated in the Governmental Affairs Committee. Thus to reiterate, no Senate hearings have ever been held on the Presidential oversight scheme contained in section 624.

If additional proof is needed that section 624 is not yet ready for Senate action, one has only to look at the impact of the section on the Federal Reserve Board. As a recent letter to me from Chairman Volcker details, S. 1080 as presently crafted would give the President substantial new capabilities for influencing the Fed's now autonomous monetary policy decisions. Apparently this result was not intended by OMB, since it was not appreciated how much of the Fed's monetary policy activity is conducted through rulemaking, and OMB has now agreed to support an exemption from S. 1080 for these Federal Reserve Board activities. How many other not-intended effects comparable to those at the Fed may occur at other independent agencies? The answer is unknown since no thorough examination of the application of this section has ever been undertaken.

A provision with the sweeping impacts of section 624 cannot be accepted on such a thin record. At a minimum, the limiting amendment that I have proposed to restrict the provision's impact on independent regulatory agencies is essential.

## EXPORT TRADING COMPANIES ARE NECESSARY—II

● Mr. HEINZ. Mr. President, today's excerpt from Franklin Cole's article, "Establishing American Trading Companies," which appeared in the Northwestern Journal of International Law and Business, autumn 1980, discusses the role of the Japanese general trading company, the sogo shosha. Like those of us who have worked so hard on this bill, Mr. Cole has no illusions about the likelihood of establishing sogo shoshas here. They are an outgrowth of Japanese cultural development, and in many respects are fundamentally at odds with our institutions. Nevertheless, there are numerous lessons about international trade we can learn from them. In the following excerpt I would draw particular attention to the four-country deal a trading company worked out in 1 week. It is that combination of imagination, efficiency and widespread contacts that makes a successful trading company. Those qualities are not unique to the Japanese, and there is much we can do to develop institutions, like trading companies, that will allow our similar qualities to flourish.

The excerpt follows:

GENERAL TRADING COMPANIES—THE JAPANESE MODEL

There is a model of trade growth whose success appear strikingly to match some of our needs. That model is a form of enterprise within the economy of Japan, the sogo shosha or "general trading company." Japan, one of the most populous countries in the world and terribly poor in natural resources,[20] had to become a trading expert in order to survive at all. To get vital raw materials, Japan had to import; to pay for imports, Japan had to export. Where in America the work of trade is done largely by manufacturers, in Japan it is carried on largely through import-export firms classified as trading companies. In fiscal 1979, trading companies accounted for 54.5 percent of Japan's imports and 48.2 percent of her exports.[21] There are some 8,000 trading companies in Japan, many specializing in particular industries or products, such as food products, textile, or machinery; nine of them are large enough, and general enough to be called "sogo shosha."[22]

Existing U.S. export management companies are generally quite small and lack the resources to provide a range of export services to small and medium sized manufacturing firms.[23] In contrast, the sogo shosha are large international trade service experts and do a remarkably wide range of work. Not themselves manufacturers, they facilitate the trade of thousands of products—from missiles to instant noodles. As trade intermediaries, the sogo shosha provide financial services, business information, and auxiliary international trade services such as documentation, insurance, warehousing, and transportation, which they have learned to do efficiently and at low cost.[24] Some of their customers are large, but many are average-sized firms who could not easily afford to provide these services for themselves.[25]

The core business of the sogo is trade, principally in foodstuffs, textiles, metals and machinery, and chemicals.[26] Once concerned primarily with sales into the Japanese domestic market,[27] as the sogo shosha matured they began to develop more sophisticated trading practices: two-way trade, for example, buying iron ore from a foreign mining company and selling Japanese mining and transportation equipment in return; barter trade, exchanges of goods for goods without currency; "switch" trade, in which imports from one foreign country are paid for in the goods or currency of another,[28] and offshore or third-country trade, in which neither the supplier nor the market is in Japan. One sogo shosha was asked for polyester fibers by a Brazilian tex-

tile maker. The sogo shosha went to a large American chemical company, which was willing to supply the fibers but was short of an essential raw material, ethylene glycol. A French firm was willing to supply the ethylene glycol, but only if it could get benezene. The sogo shosha procured benzene from firms in the U.S. and Holland, the French firm produced the ethylene glycol, and the American textile maker was finally able to provide the polyester fibers for the textile manufacturer in Brazil. This transaction, illustrating the trading practices of the sogo shosha and their match-making skill with producers and suppliers, involved five trading company offices in four countries. It was concluded in one week.[29]

As the sogo shosha's international trading activity grew more extensive and more sophisticated, they developed global communications networks, which have become their hallmark. In 1978, each of the six largest sogo shosha had from 100 to 130 overseas offices, with the smallest of the nine, Nichimen, maintaining "only" 86.[30] Nissho-Iwai, for example, the sixth in rank by sales, in the U.S. alone has offices in New York, Detroit, Chicago, St. Louis, Atlanta, Los Angeles, San Francisco, Portland, Seattle, and Anchorage, a more extensive U.S. network than operated by many middle-sized American Firms.[31] During fiscal 1976, the top six sogo shosha spent Y57.5 billion (about $192 million) on communications expenses.[32] The enormous amount of business intelligence that they collect is disseminated, usually free of charge, to their customers.[33] Such a service is greatly appreciated by the customers, and secures for the sogo shosha a continuing working relationship which also yields further business insights.

Though they are not bankers, the sogo shosha have also developed financial business.[34] They supply credit, loans, and loan guarantees to their customers, serving as risk-absorbing intermediaries between their trade customers and the commercial banks. Sogo shosha take long-term notes and deferred payments from customers for sales of commodities, and issue short-term bills or make advance payments to suppliers for purchasers. The six largest sogo shosha carried 34 percent of the total commercial credit extended by Japan's major corporations (452 firms) for the entire fiscal year ending March 31, 1974.[35] Sogo shosha make short-term loans for operating expenses, and long-term loans for purchasing equipment, plant construction and even real estate. They borrow heavily from the large commercial banks and lend small sums (though some loans are substantial) to thousands of small and medium sized producers.[36] They are in an excellent position to do this. The huge flow of business information available to the sogo shosha, plus the intimate knowledge of their customers acquired by working on a day-to-day basis to perform documentation, insurance, transport, and coordination and management services, enable the sogo shosha to make detailed and realistic assessments of the risks of lending and giving credit.[37] From the customer's point of view, finance is another service available from the sogo shosha with which they already deal and are on good terms. From the banker's point of view, the size and diversity of the sogo shosha make them good loan customers; and, with the sogo shosha as knowledgeable intermediaries to smaller businesses, the banks' risk is much reduced.[38]

Building on a base of closely-tailored import and export trade, the sogo shosha have become advisors, organizers, and catalysts in Japan's economic development, participating in Japan's growing business of exporting industrial plants,[39] in overseas natural-resource development projects, and in the creation of huge receiving-fabricating-distributing complexes or "combinats." By the summer of 1972, the sogo shosha along with five steel wholesalers had built over 200 steel centers in Japan. These centers stocked steel-mill inventories, provided shearing, sawing, and grinding to specifications, made deliveries, and offered the usual information and finance services.[40] The success of the steel centers led to more and larger ventures in other products, including foodstuffs.[41]

For the most part, the sogo shosha of today do not predate World War II.[42] In the late 1940's, some of the traders that until then had been fairly specialized began to increase their trading volume and the scope of their business. In this, they were helped by several of the principal banks, who were able to offer capital and leadership at a time when both were in short supply.[43] A new configuration began to form in the Japanese business community: "enterprise groups" (keiretsu), associations of firms whose members tended to cooperate with each other and to compete with firms outside, but without the subordination to vertical control that had characterized the pre-war conglomerates.[44] The banks were often the financial nuclei of these looser, more fluid groups, and the trading companies, as they took on the purchase, sale, and sometimes the distribution of products manufactured by other group members, broadened in range both geographically and in product variety, maturing into true general traders—sogo shosha.[45] In the last few years, group members have continued to rely upon each other in business relations, but not exclusively. During fiscal 1973, firms in the six largest groups transacted an average of ten to thirty percent of their total purchases and sales with the sogo shosha in their groups.[46] Financial arrangements have followed a similar pattern, with the firms looking to group financial institutions for about twenty percent of the borrowing needs of "their" sogo shosha.[47]

The sogo shosha have clearly been a main force in Japan's extraordinary export success. Their development of overseas markets, and their management of trade functions, have enabled Japanese manufacturers to put more capital into improving plants and products. Their extension of information, administrative services, and knowledgeable credit have helped small and medium sized firms in particular to participate effectively in international trade, to the great benefit of Japan. As a method of organizing commercial enterprise, the general trading company—large, diversified, flexible, mastering a great flow of information and expert at arranging international transactions, backed by the resources of major banks and able to stand as an intermediary where they cannot—has a number of virtues from the point of view of American international trade.●

FOOTNOTES

[20] In 1977, Japan imported 99.7 percent of her petroleum, 76.6 percent of her coal, 73.0 percent of her natural gas, 98.8 percent of her iron ore, 92.8 percent of her copper, 100 percent of her lumber, 100 percent of her wool and cotton, 96.0 percent of her wheat, 97.0 percent of her soybeans. Japan External Trade Organization (JETRO), The Role of Trading Companies in International Commerce 21 (1980).

[21] Wall St. J., Dec. 17, 1980, at 48, col. 1.

[22] JETRO, supra note 20, at 6-8. In order of sales volume, the nine sogo shosha are Mitsubishi, Mitsui, C. Itoh & Co., Marubeni, Sumitomo, Missho-Iwai, Toyo Menka Kaisha (Tomen), Kanematsu-Gosho, and Michimen. In 1977, a tenth firm, Ataka, merged with C. Itoh, pushing the latter into third place ahead of its long-time rival, Marubeni.

Unfortunately, there are still few useful studies in English on the sogo shosha. I shall refer mainly to Young, the Sogo Shosha: Japan's Multinational Trading Companies (1979). Marubeni has published Martin, the Unique World of the Sogo Shosha (1978). See generally, Roberts & Mitsui: Three Centuries of Japanese Business (1973); Asis's New Giant: How the Japanese Economy Works (Patrick & Roskovsky, eds. 1976); Business in Japan (Norbury & Bownas, eds., 1974); Nakane, Japanese Society (1970) (short, insightful ethnographic study); Yanaga, Big Business In Japanese Politics (1968) (political science).

[23] Barovick, Expanding the Role of Export Trading Companies, Bus. America, April 21, 1980, at 11.

[24] Young, supra note 22, at 57-68.

[25] Id. at 138-42.

[26] In fiscal year 1975, the sogo shosha carried 47 percent of Japan's exports of machinery (56 percent of her export foreign trade), 82 percent of her metal exports (21 percent), 61 percent of her textile exports (6.8 percent), 65 percent of her chemical exports (6.4 percent), 100 percent of foodstuff exports (1.4 percent); 54 of her imports of mineral fuel and metal raw materials (52 percent of her import foreign trade), 81 percent of her foodstuff imports (16 percent), 42 percent of her machinery imports (7.2 percent), 74 percent of her textile exports (4.4 percent), and 18 percent of her chemical product imports (3.7 percent). Young, supra note 22, at 7.

[27] Id. at 86-89, Martin, supra note 22, at 4-10.

[28] See, e.g., importing precision machinery from West Germany with Indonesian currency as the currency of settlement so as to reduce the Indonesia-Japan trade deficit. Young, supra note 22 at 11. "Two-way" trade, barter, and "switch" trade are sometimes collectively called countertrade. In countertrade agreements the seller of industrial products or technology often agrees to purchase goods produced by his equipment or technology (a "buyback"), or agrees to purchase other goods produced by the buyer ("counter-purchase") representing in value a significant portion of the amount due for the industrial products or technology. See Weigand, Apricots for Ammonia: Barter, Clearing, Switching, and Compensation in International Business, 22 Cal. Mgmt. Rev. 33 (fall 79); Walt, Countertrade Gains Popularity as International Trade Tool, Bus. America., July 14, 1980, at 12-16.

[29] Young, supra note 22, at 11. In fiscal year 1976, the combined offshore trade of the sogo shosha was $15.4 billion. See id. at 197-202; JETRO supra note 20, at 23-25; Business in Japan, supra note 22, at 177.

[30] U.S.-Japan Trade Council, Report No. 31, Japan's Sogo Shosha, at 12 (Sept. 28, 1979).

[31] Young, Supra note 22, at 74-75.

[32] By late 1973, Mitsui was employing three computers in Tokyo, London, and New York to control a system of telex lines, telegraph, and privately leased data channels, in which the private channels alone carried some 20,000 messages a day to 44 offices in Japan and 112 offices overseas. Young, supra note 22, at 77-79. (Mitsui had 130 overseas offices in 1978). On one day in 1977, the Tokyo office of Mitsubishi received 144 international telephone calls and made 72; received 30,000 domestic telephone calls, 30,000 intercom calls, and made 35,000, received 4,260 copies of subscription newspapers; received 15,600 pieces of mail (10,000 from overseas) and sent out 19,000 (10,000 overseas); received 17,000 telexes, and sent 22,000. Mitsubishi operates 450,000 kilometers of telex lines, the equivalent of 11 times around the globe. U.S.-Japan Trade Council Report, supra note 30, at 8.

[33] Young, supra note 22, at 67.

[34] Id. at 58-60, Martin, supra note 22, at 21-23.

[35] Young, supra note 22, at 56-68.

[36] Id. at 62.

[37] Id. at 140-42.

[38] But see Hoshii, Japan's Banking and Investment Systems, in Business in Japan, supra note 22, at 49, 71-72; Adams & Hoshii, a Financial History of the New Japan 434-37 (1972). Dr. Hoshii complains that sogo shosha may be forced to suffer losses on liquidating collateral such as warehouse receipts and bills of lading, and that their very attention to smaller firms, and intimate involvement

with clients, inhibit the traders from cutting off credit as a bank would when risk grows too high. This concern was sounded in Japan particularly in the early 1970s after the so-called "Nixon shocks" affecting dollar-yen exchange. See the "Trading Companies" columns for the early 1970s in Nihon Keizai Shimbun (Japan Economic Journal), Industrial Review of Japan (published annually).

[39] For example, the $7.3 million sale by Sumitomo of a Du Pont magnetic-powder factory to the U.S.S.R. in 1975. Wall St. J., Dec. 17, 1980, at 48, col. 1. In 1976 the value of Japanese plant exports was $6.5 million. Martin, supra note 22, at 25-27; see Young, supra note 22, at 203-04.

[40] Young, supra note 22, at 136-38; JETRO, supra note 20, at 15.

[41] JETRO, supra note 20, at 21-23. Marubeni has a six-acre lumber center near Tokyo, housing twenty lumber wholesalers and a sawmill. Martin, supra note 22, at 17. On a much larger scale is the 23-hectare Konan food combinat (about 57 acres) organized by Mitsui at Kobe harbor, with facilities for berthing cargoes of up to 60,000 tons, and with conveyors, pipelines, silos, refrigeration, first- and second-stage processing and wholesale and retail distribution all on the site. Konon Pier, and the Konan Utility Co. (in which all the processors have equity participation), are Mitsui subsidiaries. Professor Young considers the development of combinats tantamount to organization of a new industry. Young, supra note 22, at 110-12.

In natural-resources development, Mitsubishi is the chief organizer of one of the world's largest natural gas projects off the shore of Brunei on the island of Borneo, with 45 percent participation by Mitsubishi, 45 percent by Royal Dutch Shell and 10 percent by the Brunei government. Mitsubishi did the feasibility and technical studies, carried out the negotiations, built a liquefaction plant, and constructed unloading bases in Japan. Seven tankers, each with a capacity for 32,000 tons of liquid natural gas and chartered by Mitsubishi at a rate of five million tons a year, transport the gas 4,500 kilometers from Borneo to Japan. Young, supra note 22, at 159.

It should be recalled that Mitsubishi, the largest sogo shosha, had a total sales volume of $55 billion in fiscal 1979, Wall St. J., Dec. 17, 1980, at 48, col. 1, some five times the sales of the smallest sogo shosha, and ten times the sales of the largest non-Japanese trading company, Kooperativa Forbundet of Sweden. Young, supra note 22, at 17-18, 25-26. Young finds that the huge capital requirements and high risks of natural resources development have so far put most of such projects on a basis more like Marubeni's Dampier Salt venture, an 11,800-hectare salt field in Western Australia developed in 1969-71, with 21 percent participation by Marubeni, and 11 percent by Nissho-Iwai, at a cost of about $25 million. See also Martin, supra note 22, at 72-76. In this pattern, where rival trading companies join as joint venture partners, with non-Japanese concerns also involved, the sogo shosha can jockey for market power with each other and also keep an eye on the operational methods of their rivals. Young, supra note 22, at 155-57. The long-term planning of projects such as Dampier Salt, or the Brunei natural gas development (which took six years), is another strength of the sogo shosha. U.S.-Japan Trade Council Report, supra note 30, at 6.

[42] Although trading companies in the broad sense were formed as early as the Meyi era in the second half of the nineteenth century, only Mitsui and Mitsubishi had developed a general enough trading business before World War II to be comparable to the sogo shosha of today. See, e.g., Young, supra note 22, at 31-37.

[43] See, e.g., Young, supra note 22, at 35-36; Roberts, supra note 22, at 394-95.

[44] Yanaga, supra note 22, at 32-40, Lockwood, Japan's "New Capitalism," in the State and Economic Enterprise in Japan 447, 495-98 (Lockwood ed. 1965); Young, supra note 22, at 36-38, 48-51. Roberts is more cynical of the similarity between the keiretsu and the prewar order, Roberts, supra note 22, at 408-28, but Prof. Yanaga, who wrote the preface to the Roberts book believes that "the present setup is very different from the setup before the war in spirit, structure, and operation." Yanaga, supra note 22, at 39.

[45] Business in Japan, *supra* note 22, at 160-64; Martin, *supra* note 22, at 33-36; Young, *supra* note 22, at 37, 48, 83-144.

[46] Sales of the sixty-five firms in the Mitsubishi, Mitsui, and Sumitomo groups to their sogo shosha amounted to approximately 20 percent of the sogo shosha's purchases. About 5-6 percent of the three sogo shosha's sales was purchased by their group firms. (The other firms were more dependent upon the sogo shosha than vice versa.) Sales and purchases transacted with their sogo shosha made up about 30 percent of the sixty-five firms' total sales and purchases. For the remaining six sogo shosha, and the 122 firms in the groups to which they belong, the relationship is rather weaker, accounting for some 10 percent of the total sales and purchases of the manufacturers in these groups. The latter six groups are those in whose assembly leading banks were most instrumental. These figures are averages compiled by the Japan Fair Trade Commission, and do not state transaction percentages between specific group firms and group sogo shosha. Young, supra note 22, at 44-45.

[47] Young, supra note 22, at 42-44. For example, Mitsubishi took 14.8 percent of its loans from the Mitsubishi Bank, an additional 10.5 percent from other Mitsubishi group institutions, and 9.5 percent from its "second main bank," the Bank of Tokyo; while C. Itoh satisfied more of its borrowing needs from the Sumitomo Bank (12.9 percent) than from all the financial institutions in the Dai-Ichi Kangyo Bank group (12.1 percent) to which C. Itoh is considered to belong. Id. at 34, 37, 39-41. See P.B. Stone, Japan Surges Ahead 59, 164 (1969).

## THE IDAHO COMMISSION FOR THE BLIND

● Mr. McCLURE. Mr. President, I would like to take a few minutes today to acknowledge the many accomplishments of an outstanding organization in my State—the Idaho Commission for the Blind. The Governor of Idaho recently proclaimed January as National Federation of the Blind Month in Idaho, and the Idaho commission has been cited as a model for other State organizations.

The National Federation of the Blind, during their national convention in 1980, recognized the Idaho Commission for the Blind as one of the best in the Nation. NFB president, Kenneth Jernigan, when asked which rehabilitation agency he would recommend to a blind friend or relative, named the Idaho agency for several reasons.

They are responsive to the needs of the blind and work closely with the blind in helping them achieve goals of employment and independence. There is a close working relationship between the agency and the National Federation of the Blind of Idaho which is the largest organization of blind in Idaho, numbering between 250 and 300 active members. Additionally, the three-member commission board has two blind members, and all work diligently to achieve policies benefiting all blind Idahoans.

The philosophy of the Idaho commission centers around the belief that the blind should be provided the opportunity to perform responsibly in their own communities. Skills and guidance are offered to achieve adjustment to blindness and training is provided to increase blind person's ability to gain employment and independence. Individuals are expected to get a job in the competitive labor market, participate in the community and lead independent, self-supporting lives. The blind receiving rehabilitation services in Idaho are not placed in sheltered employment or shelter homes as is the general rule with many agencies that serve the blind. Instead, blind Idahoans are accepted as equal citizens and are expected to fulfill their responsibilities as such. In a day and age when the Government offers many programs that, in my opinion, simply foster dependence and do nothing to encourage employment, the Idaho commission stands as a shining example of an agency that does exactly the opposite.

The commission has one of the most active consumer-involvement systems in the Nation. Staff members are invited and expected to attend organized blind functions. Communication is encouraged between blind members and the staff about program concerns, direction and suggested solutions. Staff contacts the blind clients on a regular basis. Through this continual contact, problems are resolved and both the individual and the agency are committed to a mutually arrived at plan outlining the blind individual's steps to rehabilitation.

The Idaho Commission for the Blind is not an agency where a blind person has to work through a complicated process to communicate with staff members, either at a direct service or administrative level. It is the general rule, not the exception, for the blind person to visit with the Administrator, Mr. Howard Barton. This is an agency where everyone knows the blind people come first, and nobody gets the runaround.

Last year, Mr. President, the Idaho commission, working with a staff of 28, 8 of whom are blind themselves, provided rehabilitation services to 335 blind individuals. Forty-four were closed as rehabilitated. Nineteen of these were homemakers. The 25 employed were earning between $600 to $2,000 a month and their jobs included store clerk, electrician, college professor, dairy farmer, and accountant.

Mr. President, I am very proud of the Idaho Commission for the Blind and I am proud that last month was set aside in Idaho to honor the National Federation of the Blind. I would encourage my colleagues and their own State agencies to take a close look at how the Idaho commission works. The commission provides help with adjustment to blindness, job training and job acquisition, and the leading of independent lives. In short—simple human dignity.●

## RULES OF THE COMMITTEE ON APPROPRIATIONS

● Mr. HATFIELD. Mr. President, in accordance, with the requirement of Senate rule XXVI, paragraph 2, to publish the rules of each Senate committee in the CONGRESSIONAL RECORD

each year, I submit the procedural rules of the Committee on Appropriations. There have been no changes in these rules from last year.

RULES OF PROCEDURE—SENATE COMMITTEE ON APPROPRIATIONS

1. MEETINGS

The Committee will meet at the call of the Chairman.

2. QUORUM

(a) Reporting a bill. A majority of the members must be present for the reporting of a bill.

(b) Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

(c) Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Commmittee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

3. PROXIES

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

4. ATTENDANCE OF STAFF MEMBERS AT CLOSED SESSIONS

Attendance of staff members at closed sessions of the Committee shall be limited to those members of the Committee staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

5. BROADCASTING AND PHOTOGRAPHING OF COMMITTEE HEARING

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcastng of an open hearing, the question shall be referred to the Full Committee for its decision.

6. AVAILABILITY OF SUBCOMMITTEE REPORTS

When the bill and report of any subcommittee is available, they shall be furnished to each member of the Committee twenty-four hours prior to the Committee's consideration of said bill and report.

7. POINTS OF ORDER

Any member of the Committee who has in charge an appropriation bill, is hereby authorized and directed to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriation bill.●

## HUMAN RIGHTS OF HUNGARIANS IN ROMANIA

● Mr. DOLE. Mr. President, the State Department recently submitted its 1981 Country Reports on Human Rights Practices to the Senate Foreign Relations Committee and the House Committee on Foreign Affairs, which included a detailed analysis of the human rights situation in Romania.

American Hungarians have long been concerned about the treatment of their friends and families in Romania, where ethnic Hungarians have lived and have formed a separate minority since the foundation of the modern Romanian state. One section of this latest analysis by the State Department is of particular interest to the Senator from Kansas because of my position as cochairman of the Commission on Security and Cooperation in Europe, which is mandated by law with monitoring compliance with the Helsinki accords of 1975, and because of the MFN, or most-favored-nation trading status that Romania enjoys by special waiver. This particular section evaluates the situation of Hungarians in Romania, noting the closing of many ethnic language schools, the lack of bilingual signs in Hungarian populated regions, limitation of cultural expression, as well as other actions which point to the Romanian Government's lack of respect for the rights of its Hungarian minority. Romania's treatment of its Hungarian minority clearly violates principle VII of the Helsinki Final Act, signed by 35 heads of state, including Romania's President Ceausescu, which states that participating states on whose territory national minorities exist will respect the rights of those minorities.

While the State Department's findings comprise a substantial portion of the grievance felt by Romania's 2.5 million Hungarians, the majority of whom live in the historical province of Transylvania, there were other elements not fully covered in the report. These include the dispersal of the Hungarian intelligentsia into purely Romanian areas, the constant harassment of the churches—especially those of the Hungarian and German minorities, and the conscious campaign to do away with the relics of the Hungarian past of Transylvania.

The American-Hungarian Federation, representing more than 300 American-Hungarian churches, associations and clubs from Hawaii to Massachusetts, addressed a letter to Secretary Haig praising improvements in this status report over last year's and indicating some areas that remain of continued concern to them. Mr. President, I ask that the text of this letter be printed in the RECORD.

The letter follows:

AMERICAN HUNGARIAN FEDERATION,
*Washington, D.C., February 22, 1982.*

Hon. ALEXANDER M. HAIG, Jr.,
*Secretary of State,*
*Department of State,*
*Washington, D.C.*

DEAR SECRETARY HAIG: Our Federation read with considerable interest the Human Rights Report of your Department, which was recently published by the Senate and House Committees on Foreign Relations and Foreign Affairs.

At this time, we would like to comment on the statements concerning the human rights of the Hungarians living in Romania (Transylvania).

We noted with satisfaction that the obnoxious sentence about the Romanian Government not pursuing any official policy of discrimination against minorities was omitted this year. It was incorrect, and we are glad that the statement was rectified.

We are also happy to note that the grievances of the Hungarian and German minorities are detailed in a more comprehensive form than last year, especially the part about the gradually diminishing school sections and the lack of bilingual signs.

We are still wondering how the Romanization of the Szekler counties, which is a rather new phenomenon (since 1975 but more intensively since the last Five Year Plan, is not even mentioned. We would also like you to note that police brutality resulted in at least one death in Dej last year. Further details will be made available, including names and dates, at your request.

May we call the attention of your Department to the fact that the Hungarian Reformed Church in Romania has 750,000 believers according to their own statistics and, probably, at least 100,000 to 200,000 more among those, who for personal reasons, are not officially members of the denomination so as to avoid discrimination in their positions. This is the third largest church body in Romania, after the Romanian Orthodox Church and the Roman Catholic Church. Yet, it is not listed among the major denominations, while the numerically much smaller Lutherans and Baptists are listed.

In addition, there is a misleading statement in the report, which states that it is still possible to attend many courses in Hungarian and German, in the Hungarian and German inhabited areas, "through the University level." According to information received from the Pro-Rector of the Babes-Bolyai University in Cluj-Napoca (Kolozsvár), in 1978 the only "parallel" courses in Hungarian at the University, outside the Hungarian linguistic and literature department were: four courses in chemistry, two in law and two in Marxist-Leninist dialectics. There were an estimated 500 courses given in Romanian. This fact indicates that the above statement is misleading, and we would like to ask for its correction in the next report.

Concerning the general grievances of the Hungarians of Transylvania, may we call your attention to a letter by Representative Robert J. Lagomarsino (Rep., Ca.), which was co-signed by 120 other members of the House of Representatives on December 8, of which a copy was given to your staff by Doctor Michael Ledeen, prior to your departure for Bucharest.

We are in agreement with the President's decision on withholding the $65 million credit to Romania through CCC, and we hope that the economic leverage of the United States will be applied, so as to improve Romania's human rights record and to effect an amelioration of the treatment of its national minorities, including the 2.5 million Hungarians now living in Transylvania.

With best regards, we are
Very sincerely yours,
Rev. Dr. LADISLAUS A. IRANYI,
*National President.*●

## HUMAN AND CIVIL RIGHTS

Mr. KENNEDY. Mr. President, today I read an address given by Terry Herndon, executive director of the National Education Association, to the Human and Civil Rights Conference of the NEA in Washington, on February

20, 1982. It is a compelling speech by a man sensitive to the problems faced by our world today. As a leader of the NEA, an organization of Americans who as teachers of our young, mould the minds and spirits of those who will lead this country tomorrow, Mr. Herndon has often spoken out on issues of national concern. On this occasion he focused on the question of basic humanity and what are America's priorities and where America will invest its energy resources. He warns us of the dangerous course on which our country is now moving and rededicates himself as should all of us, to renewed efforts toward building peace in our world.

Mr. President, I ask to include the text of Mr. Herndon's remarks at this point in the RECORD.

The text follows:

PRESENTATION TO HUMAN AND CIVIL RIGHTS CONFERENCE

Saturday, February 20, 1982, comes as a bad time for me, and it's good to be among friends. I must say that, throughout my tenure of office, I have felt most at home among our human rights zealots.

I have often listened to you and talked with you. I have addressed several of your meetings so a number of you are accustomed to me. You know that I often jest; but today humor seems out of place. You know that I often present organizational problems and my views as to their solution; but today this seems out of place. You know that I often speak optimistically of political opportunities; but today this, too, seems out of place.

Today, I am heavily burdened by the state of our government. Throughout the early parts of 1980 I relieved my fear and anxiety about a Reagan government by frenzied work to prevent its being. We did, however, fail in that effort. It did come to pass.

Since then we have, in diligent compliance with your mandates—NEA policies—busied ourselves with the defense of our previous gains. I have argued:

That we must preserve a federal commitment to equality of opportunity and the protection of civil rights even as the President said, "No!"

That we must persist with a federal commitment to quality public education for all children even as the President said, "No!"

That we must maintain significant federal aid to local school districts even as the President said, "No!"

That we need a Department of Education to lead and husband the nation's efforts to develop its human resources even as the President said, "No!"

That we need a fair system of taxes which allows the nation to do these and other things necessary for the wise and humane distribution of our productivity among the people. I argued this even as the President said, "No!"

These efforts must go on; but, my friends, they no longer dispel my fear and apprehension about even greater things.

Do you remember Hamlet? Early on in the play young Laertes prepares to depart Denmark for France. About to enter the boat he kneels at water's edge to receive a blessing from Polonius, his father. Father advises son on friendship, temperance, fidelity, charity, thrift and other elements of life. He concludes with

This above all: To thine own self be true; and it must follow, as night the day, Thou canst not then be false to any man.

Here among my friends today I must to mine own self be true. I cannot let today after today pass and risk that I, like Walt Whitman a century ago, will have to say;

I sit and look out upon all the sorrows of the world, and upon all oppression and shame,

I hear secret convulsive sobs from young men at anguish with themselves. . . .

I see the workings of battle, pestilence, tyranny. I see martyrs and prisoners.

I observe the slights and degradations cast by arrogant persons upon laborers, the poor, and upon negroes and the like;

All these—all the meanness and agony without end—I sitting look out upon.

See, hear, and am silent. I see; I hear; but I will not be silent.

I am a husband and father. I am a teacher. I am a Godfearing American. From beneath each hat I speak my woe for a government (Republican President, Republican Senate, but Democratic House) which forsakes the downtrodden and the disenfranchised and gouges the laborers to enhance the comfort of the comfortable and to enhance the most expensive war machine in the history of the world.

I who have delivered hundreds of speeches struggle desperately to find words to express the feelings that boil within me. We have enacted into law the largest tax cut in history and delivered extraordinary financial windfalls to wealthy individuals and powerful corporations only to hear the perpetrators tell us that we cannot afford to provide proper schools for our children; higher education for our graduates; safety enforcement for our workers; income assistance or job training for the unemployed; food, medicine, or legal aid for the indigent.

A recent study by the Treasury Department discloses that we have exempted major industries such as automobile, transportation and mining from any tax whatsoever on their income from new investments—indeed they will receive what amounts to a tax subsidy to use against income from past investments—while we debate whether we can afford to sustain the Social Security System and debate another $8 billion dollar cut in child benefit programs.

In spite of soaring interest rates which inflate the price of all goods and services, the President proposes a budget with a $90 to $100 billion dollar deficit so as to finance a $1.5 trillion dollar five-year military program and a $240 billion military budget in fiscal year 1983. This is more than $1,000 per American. This is crazy, and I must ask, "What are we becoming?" "What kind of a people are we?"

If you've not recently read the Constitution of the United States of America you should do so. For all of its flaws, like the absence of ERA, It is a magnificent document. It begins with—

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

This is the proclamation of a peace-loving people, not a militaristic people and the Constitution which follows does not establish a militaristic government. Yet today we feed a military machine which threatens to consume entirely our will and capacity to establish justice, insure tranquility, promote the general welfare and secure the blessings of liberty. Moreover it may indeed provide more common jeopardy than defense.

The United Nations Study on Nuclear Weapons, 1980, opens with the observation that—

It is obvious that the nuclear-weapons arsenals existing today are many times larger than what the super powers would need for a credible deterrence. Furthermore, their technological development makes it increasingly difficult to maintain the so-called balance of terror, and risks that it will get out of hand are growing. Particularly serious is the continued talk of military planners in various quarters about using nuclear weapons in the same way as other weapons, and the idea that a nuclear war can be fought and won.

My friends, the contemporary scene warrants such dire observations. Indeed it is affirmed by George Kennan, former ambassador to the USSR, former ambassador to Yugoslavia, distinguished professor at Princeton University, and recipient of the 1981 Einstein Peace Prize. He speaks of an arms race which is ". . . taking possession of men's imagination and behavior, becoming a force in its own right, detaching itself from the political differences which originally inspired it, and then leading both parties, invariably and inexorably, to the war they no longer know how to avoid." Indeed, it seems to me, that even the much touted SALT discussions have been so manipulated by Soviet and American politicians that they are no longer a means of escape but rather one more front in the mindless battle for military superiority.

Too many Americans have succumbed to the macho slogan, "better dead than red" and I have seen my Russian brothers and sisters propagandized with the equivalent: Better a dead white hue than red, white, and blue. They are equally foolish.

I want to live. I want to live in peace. I want to live with hope. I want to secure the blessings of liberty for my posterity—my beloved children and your children. Nuclear holocaust does not relate to a single one of my personal aspirations yet I am taxed and taxed to sustain its grisly probability.

Have you ever considered that there is no record in the whole of human history of the invention of an effective weapon that was not eventually used. As you ponder that simple historical fact please consider as well that there are now 40,000 to 50,000 nuclear weapons in the world and their explosive power exceeds one million Hiroshima bombs. Add to that the technical reality that any one of these weapons can annihilate the larger part of any major city in the world. Clearly, the explosion of a small fraction of the world's arsenal would mean that civilization as we know it will cease to be.

Yet as experts and common citizens alike see this as an increasingly probable event we continue with business as usual: We set it aside to watch the Superbowl, to check our papers or to write our reports.

The President of the United States knows that military spending increases inflation, decreases productivity, yields fewer jobs than domestic spending, raises the costs of consumer goods and services, depletes the resources for filling basic human needs and delays prosperity for the poor in wealthy societies. And still he proposes unprecedented and, I believe, unwise military expansionism. Thus, he clearly poses the question, "What kind of a nation are we to be?"

We are a government "of the people, by the people, and for the people." It is, therefore, necessary for the people to speak. I this day declare myself: I believe that the imposition of a self-serving Pax Americana on the people of the world through force of arms and military intimidation is impossible, and the persistent effort to do so does not promote the national security of our country or its people.

Each year that I have lived, I have seen more evidence that this is so. Neither money nor arms made in America could preserve Lon Nol, Thieu, Batista, Somoza, Pahlevi, or others who served the American economy but deprived and oppressed their people. Yet today, with the price being an inestimable loss of moral authority among the world's people, we replicate the sins of the past and show a military rather than a caring face to the people of El Salvador and virtually assure a Sandinista-like hostility toward the people of the U.S.

The United States has provided the Salvadoran government with $81 million in military aid this year to shore up an army which apparently is beyond the control of its government, sent military advisors to El Salvador, and is training Salvadoran troops in North Carolina and Georgia. Moreover, there are credible allegations that our government is thinking of covert action and paramilitary operations in El Salvador.

How then do we sustain the force of moral credibility as our President chastizes the Sandinista for their "continued involvement" in Salvadoran affairs; or, more importantly, as we confront the Soviets over their unconscionable intimidation of the Polish people?

How do we, after using the past two decades to spend more money on military capacity than any people on earth, justifiably urge military restraint on the Soviets, the Nicaraguans, the Israelis, or any other nation on earth?

How do we, the world's leading arms merchant with 47 percent of the $20 billion-dollar-a-year business, find a moral stage from which to reprimand the French, the Chinese, or the Russians for their paltry portions of the trade?

How do we consider that our extraordinary intellectual capacity and technical ability has led the world in the development of weaponry for fifty years and yet we are more vulnerable to annihilation than ever before and still believe that more of the same will create meaningful "national security?"

My friends, it is time that we, the NEA's activists for human rights, turn our attention to the most fundamental of human rights: the protection of our right as human beings to live safely and freely without persistent fear that governments, by decision or accident, will end civilized life on our marvelous planet.

The budget which our President has placed before the Congress of the United States is a moral outrage, not only because:

It is based on an inequitable revenue system;

It is oblivious to the needs of millions of people;

It retreats from fulfilling the fundamental purposes and promises of our nation;

It presents deficits which will impair economic development; and

It treats our basic causes of education and civil rights most harshly.

But even more important it is outrageous because it commits a peace-loving people to the acceleration of a bizarre adventure in militarism as the means of national security. In 1982 we are told that we, like the followers of Orwell's Big Brother, will, in 1984, accept the delusion that "War is Peace." It will not be so for me.

I am a teacher who sees beauty in each person.

I am a teacher striving for one family of humankind.

I am a teacher craving liberty and freedom for all people.

I am a teacher encouraging love, compassion, and understanding between people and nations.

I am a teacher struggling to resolve hatred among people.

I am a teacher repulsed by the oppression of the body, the mind and the spirit.

I am a teacher angered by the exploitation of the weaker among us.

I am a teacher tormented by the futility of war among the brothers and sisters who are the children of God.

I wish that Dr. Martin Luther King were still among us. He spoke so forcefully and clearly about war, about peace and about the strength to love. He looked on ". . . the horrors of two world wars which left battlefields drenched with blood, national debts higher than the mountains of gold, men psychologically deranged and physically handicapped, and nations of widows and orphans," and observed that "Man collectivized in the group, the tribe, the race, and the nation often sinks to levels of barbarity unthinkable even among lower animals."

Were he here he would question the morality of our national course with thunder in his voice because he would see that the increasingly inevitable next war would resemble those he had seen except that there would be no winners and no nations of widows and orphans because they too will be dead.

I and those whom I dearly love may yet be victims of his contemporary madness, but I will resist and press for peace. I will follow no leader who does not speak honestly and reasonably of peace. It's my solemn conviction that our NEA would perform its greatest service for its members, their students, their country and their common family of humankind were it to do likewise.●

## THE RULES OF PROCEDURE OF THE BANKING COMMITTEE

● Mr. GARN. Mr. President, in accordance with paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit the "Rules of Procedure of the Senate Committee on Banking, Housing, and Urban Affairs" to be published in the CONGRESSIONAL RECORD.

There have been no changes to the rules since they were adopted by the committee on February 4, 1981, nor have there been any requests for rule changes. Typically, the committee's rules are published at the beginning of each Congress and need no revisions during each 2-year period. The rules follow:

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

(Adopted in executive session, February 4, 1981)

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2.—COMMITTEE

(a) *Investigations.*—No investigation shall be initiated by the Committee unless the Senate or the full Committee has specifically authorized such investigation.

(b) *Hearings.*—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(c) *Confidential testimony.*—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(d) *Interrogation of witnesses.*—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the ranking minority member of the Committee.

(e) *Prior notice of mark-up sessions.*—No session of the Committee or a Subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session at least 48 hours prior to the commencement of such session, or (2) the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

(f) *Prior notice of first degree amendments.*—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless twenty written copies of such amendment have been delivered to the office of the Committee at or before 2:00 p.m. on the business day prior to the meeting. This subsection may be waived by a majority of the Members of the Committee or Subcommittee voting. This subsection shall apply only when at least 48 hours written notice of a session to mark up a measure is required to be given under subsection (3) of this rule.

(g) *Cordon rule.*—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee chairman, it is neces-

sary to expedite the business of the Committee or Subcommittee.

RULE 3.—SUBCOMMITTEES

(a) *Authorization for.*—A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

(b) *Membership.*—No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

(c) *Investigations.*—No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

(d) *Hearings.*—No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Committee.

(e) *Confidential testimony.*—No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the ranking minority member of the Subcommittee, or by a majority vote of the Subcommittee.

(f) *Interrogation of witnesses.*—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the ranking minority member of the Subcommittee.

(g) *Special meetings.*—If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular, additional, or special meeting of the Subcommittee, the ranking member of the majority party on the Subcommittee who is present shall preside at that meeting.

(h) *Voting.*—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee are actually present. Any absent member of a Subcommittee may affirmatively request that his vote to recommend a measure or matter to the Committee or his vote on any such other matter on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

(a) *Filing of statements.*—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (before noon, 24 hours preceding his appearance) 75 copies of his statement to the Committee or Subcommittee. In the event that the witness fails to file a written statement in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) *Length of statements.*—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his views to the Committee or Subcommittee. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) *Fifteen-minute duration.*—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 15 minutes duration. This period may be extended at the discretion of the Chairman presiding at the hearings.

(d) *Subpoena of witnesses.*—Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the ranking minority member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) *Counsel permitted.*—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(f) *Expenses of witnesses.*—No witness shall be reimbursed for his appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and ranking minority member of the Committee or by a majority vote of the Committee.

(g) *Limits of questions.*—Questioning of a witness by members shall be limited to 10 minutes duration, except that if a member is unable to finish his questioning in the 10-minute period, he may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 10 minutes until all members have been given the opportunity of questioning the witness for a second time. This 10-minute time period per member will be continued until all members have exhausted their questions of the witness.

RULE 5.—VOTING

(a) *Vote to report a measure or matter.*—No measure or matter shall be reported from the Committee unless a majority of the Committee are actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) *Vote on matters other than a report on a measure or matter.*—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of a Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him during such public or executive hearing on the dais. If a member desires a second staff person to accompany him on the dais he must make a request to the Chairman for that purpose.●

## HANDS OFF U.S. MONEY POLICY

● Mr. JEPSEN. Mr. President, recently a number of foreign leaders, particularly West German Chancellor Schmidt, have criticized U.S. monetary

policy for keeping international interest rates high. The implication is that the Federal Reserve should increase money growth in order to lower interest rates. However, as a recent article by Samuel Brittan points out, this is unlikely to reduce interest rates in the United States or elsewhere, because the level of interest rates is primarily a function of inflation rates. This is why Japan has a prime rate of 6 percent; Switzerland, 8 percent; Germany, 13 percent; the United States, 17 percent; and Italy, 22 percent. If any nation wants to lower interest rates, all it has to do is reduce its inflation rate, and this requires slow money growth. I ask that the article be printed in the RECORD.

The article follows:

[From the Financial Times, Feb. 22, 1982]

HANDS OFF U.S. MONEY POLICY

(By Samuel Brittan)

There is something unhealthy about the European attitude to U.S. interest rates and monetary policy.

A plausible case can be made out for the ostensible on-the-surface attitude. The U.S. budget deficit—not merely for this year, or next, but stretching as far ahead as can be seen well beyond the present recession—is too large. The result is an excessive strain on interest rates on both sides of the Atlantic.

Presented in this way, it is not a criticism of the Fed, but a reinforcement for it in its campaign for more responsible fiscal policy. President Ronald Reagan will not tremble in his boots when U.S. budget deficits are denounced by Sir Geoffrey Howe in the House of Commons or when the Belgian Prime Minister M. Wilfried Martens protests about it in the White House. But no doubt every little pressure reinforces those in the Administration and in Congress who are in any case unhappy with events.

So far so good. But there is a further half-expressed sentiment in the background. This is that even if the U.S. budget deficit cannot be reduced by the large amounts required, U.S. interest rates should still be cut, even if that means soft-pedalling the Fed's stand against inflation.

Some Europeans almost appear to be saying: "Please reduce interest rates at all costs and stockpile our currencies, and meanwhile don't forget that General Jaruzelski makes the trains run on time." But sticking to the monetary point alone, it would be disastrous if Mr. Volcker were to give an inch.

There is no way by which the Fed can control both interest rates and the monetary supply. By abandoning or disregarding its monetary objectives it might secure some temporary alleviation—but at the expense of more rapid inflation and still higher interest rates in a year or two. This is the mistake that the Fed, like many other central banks, has made on most previous recessions—one hopes that the Bank of England is not making it now.

A re-acceleration of U.S. inflation would not be in the interest of the rest of the world. The dollar is still by far the most important international currency and renewed uncertainty about its future value could only create more disturbance—for interest rates as much as for anything else.

Nor would foreign currency intervention provide a satisfactory alternative. Such intervention at most buys time: and if the underlying forces do not change, European interest rates and exchange rates will have to move all the more sharply in the end—as Sir Harold Wilson can testify from his efforts to hold the $2.40 sterling parity.

There is already more than enough domestic pressure on the Fed to relax its monetary stance without the Europeans adding any more. The Administration, for all its monetarist talk, has asked the Fed to go to the top third of its target monetary growth range—which nullifies the whole idea of having a range.

The Fed has already gone as far as it should be basing its 1982 target growth range of 2½ to 5½ percent on where the money supply should have reached last year and ignoring the undershoot which did occur.

It is in any case untrue that world interest rates are rigidly tied to U.S. ones. Prime lending rates vary from less than 6 percent in Japan to 8 percent in Switzerland, 13 percent in Germany to 14–14½ percent in Britain and France, 17 percent in the U.S. and over 22 percent in Italy.

There are obviously factors at work other than inflation differentials; but they have a key role. Any European country can have a lower interest rate than at present, without depreciating against the dollar, if the markets come to believe that it has moved on to a less inflationary course.

Politicians deceive themselves if they suppose that the worldwide shift from negative to positive real interest rates is mainly the result of central bank policy. It reflects much deeper forces such as an increase in the demand for capital. European statesmen would do more for world harmony and prosperity by putting their own houses in order than by reading lectures to Washington.●

## NUCLEAR WASTE POLICY IN THE UNITED KINGDOM

● Mr. JOHNSTON. Mr. President, title V of the version of S. 1662, the National Nuclear Waste Policy Act, reported by the Committee on Energy and Natural Resources on October 21 of last year directs the Secretary of Energy to submit to Congress a detailed proposal for a system of facilities for the long-term isolation of nuclear waste in a manner which permits continuous monitoring and ready retrieval of the waste. I believe that the monitored retrievable storage (MRS) concept of nuclear waste isolation is worth serious consideration by the Congress and the administration. Therefore, I strongly support the provisions of title V.

The MRS concept has assumed an integral role in the nuclear waste management policy of the United Kingdom. In a statement on high level radioactive waste management made last December, the Secretary of State for the Environment noted that:

The longer such waste is stored, the more safely it could be eventually buried because there would be less heat to dissipate.

Because of this—

serious consideration should be given to the desirability of storing high-level waste at the surface in solid form for a period of 50 years and possibly much longer. At the end of that period a decision would be needed whether to continue to store it, or to bury it deep underground, or to use one of the other methods (emplacement on or under the ocean bed) currently under investigation.

Chapter 5 of the "Second Annual Report of the Radioactive Waste Management Advisory Committee" made in May 1981 to the Secretary of State for Environment discusses the storage and disposal of solidified high-level nuclear wastes in more detail and sets forth the rationale for an MRS approach.

In view of the importance of satisfactory management of radioactive waste, it would clearly be wrong to take a decision (on permanent disposal) before much more information has been obtained. Even when such information is available, it may not be right to take irreversible steps immediately. It may be better to leave future generations the flexibility of deciding how and when to dispose of the solidified waste, having ourselves carried out the research and development to provide them with information on the technical options. For, while it is important to gather all the necessary information to select the preferred approach, the timescales involved mean that there is adequate time for a thorough assessment of the options to be made during the considerable period of storage which is necessary. Storage can be engineered using currently available technology, and studies should be vigorously pursued to determine how long such storage can be safely continued.

Mr. President, in order that my colleagues have an opportunity to review this very interesting and provocative analysis of the direction being taken in the United Kingdom, I ask that the text of the statement of the Secretary of State for Environment and the full chapter 5 entitled "Storage and Disposal of Solidified High-Level Wastes" referred to above be printed in the RECORD.

The statement follows:

RESEARCH INTO THE DISPOSAL OF HIGH-LEVEL WASTES

House of Commons: Mr. Michael Spicer (South Worcestershire): Rose to ask the Secretary of State for the environment, whether he has reviewed the research programme into the long-term options for disposing of high-level radioactive waste: and if he will make a statement.

Mr. Tom King: The Government has been reviewing the research programme and this review has highlighted the fact that, the longer such waste is stored, the more safely it could be eventually buried because there would then be less heat to dissipate. For this reason, the Radioactive Waste Management Advisory Committee recommended in their second report published earlier this year, that serious consideration should be given to the desirability of storing high-level waste at the surface in solid form for a period of 50 years and possibly much longer. At the end of that period a decision would be needed whether to continue to store it, or to bury it deep underground, or to use one of the other methods (emplacement on or under the ocean bed) currently under investigation.

The Government has now reviewed the geological element in the research pro-

gramme for high-level waste in the light of that advice and the conclusions already reached about general feasibility.

The Government has been keeping under review the options for high-level waste, and in particular has been reviewing the progress in other countries as well. The considerable level of research work already completed relates in particular to the factors involved in the emplacement of high-level waste deep underground. The government's objective has been to establish in principle the feasibility of that potential method of disposal, and now believes that in the light of its review of progress of work overseas that this in now established in principle, and nothing has emerged to indicate that it would be unacceptable.

They have decided that this part of the programme should now be reoriented to confirming the applicability to the UK of the findings from research in other countries. For the time being this will be done by means of desk studies, laboratory work, and the use of data already available. Exploratory drilling will not be needed for this purpose. The Government will look to the Radioactive Waste Management Advisory Committee for advice on the interpretation and implications of work carried out in other countries, as well as on other aspects.

Appropriate provision will be made for the surface storage of vitrified waste. In view of the lengthened time-scales and the plans to construct disposal facilities in other countries, it is not now intended to construct a demonstration facility for underground disposal in the UK. Instead the UK will follow closely studies involving underground facilities in Sweden, Canada, and the USA for granite, in Belgium for clay, and in the USA and Germany for salt.

The reorientation of the research programme does not mean that further geological fieldwork would not be useful, and indeed possibly necessary for decisions that may have to be taken at some future date or if any unexpected difficulty became apparent over storage, but it does not have any present priority. The immediate effect of this decision is that the appeals for planning permission for drilling in the Cheviots will be dismissed, and the other pending appeals and planning applications will be withdrawn.

It will now be possible to concentrate the full priority on the continuing research and implementation in ensuring the safe and acceptable storage of wastes. At the same time priority will be given to making progress towards the early disposal of those wastes with a lower level of radioactivity for which there is no technical advantage in delaying disposal. Research will also continue into the feasibility of the ocean disposal options for high-level waste, which have not yet been established. A white paper will be published in due course to set out in more detail the current priorities as we see them.

SECRETARY OF STATE FOR SCOTLAND'S STATEMENT

In the light of the reorientation of the geological research programme for heat generating wastes referred to in the reply given today by my Rt. Hon. Friend, Minister for local government and environmental services, and the decision that exploratory drilling will not be needed for this purpose for the time being. I am dismissing the appeal and refusing planning permission. My decision will be issued shortly.

Wednesday 16, December 1981.

STORAGE AND DISPOSAL OF SOLIDIFIED HIGH-LEVEL WASTES

5.1 In our First Report, we discussed the work being carried out on means of dealing with the high-level radioactive waste which is left from the nuclear fuel cycle when spent fuel from nuclear reactors has been reprocessed to separate out uranium and plutonium for reuse. This waste is an intensely radioactive, heat-generating liquid, and has been safely stored in this form in water-cooled tanks since the early 1950s at Windscale and since the early 1960s at Dounreay. It is, however, planned to vitrify it in order to make it more manageable and reduce any risk of the leakage of radioactivity to the environment, although future arisings will probably still have to be stored in liquid form for some years, in order to allow the shorter-lived radionuclides to decay, and thus some of the heat generation to diminish, before the waste is vitrified. The vitrified blocks will need further storage (see para 5.4 below) while significant amounts of heat still being generated can be removed. Once the rate of heat generation by the waste blocks has fallen sufficiently, they can, in principle, be disposed of deep underground, on the deep ocean bed, or under the sea bed, or they can be retained in long-term storage. The necessary research is now being carried out to compare the relative advantages of the different options.

5.2 Storage of high-level waste for considerable lengths of time is already known to be practicable and in a vitrified form would require far less supervision than in liquid form. An example of a store for vitrified waste is that currently in use by the French at Marcoule. This employs forced air-cooling, and is technically far simpler than the elaborate water-cooled storage used at present.

5.3 How long waste should continue to be stored in this final stage, and when it should be disposed of, will be matters essentially for political determination, taking account of the results of research currently being carried out. The Committee nevertheless considers it important to give thorough preliminary consideration to all the different factors which will have to be taken into account.

5.4 The initial period of storage need only extend for a few years after fuel has been discharged from the reactor in order to gain considerable advantages from the fall in radioactivity and heat output. The duration of the subsequent period of storage in vitrified form depends on a number of factors, the most important of which is the eventual method of disposal to be adopted: a shorter period may be required if the waste is disposed of on the deep ocean bed than if it is buried below the sea bed or the land surface. The effects of heat-generating waste on the medium in which it might be buried are still under investigation.

5.5 Whether or not the waste continues to be stored after the period in which artificial cooling is required, or whether it is then disposed of, will depend no doubt in part on considerations of cost but also on judgments about such matters as the extent to which it is right to deal with problems in the present, as distinct from relying upon their future resolution. In para 390 of its Sixth Report, on Nuclear Power and the Environment, the Royal Commission on Environmental Pollution (RCEP) summed up its views on the balance of argument as follows:

To some, the concept of irretrievable disposal as compared with indefinite storage may smack of irresponsibility because it implies loss of control. On the other hand, any storage system implies some degree of maintenance and could be regarded as an imposition on our descendants who would have received no direct benefit from the power generated in reactors that produced the wastes. In addition, the storage of such immense quantities of radioactivity presents dangers from accidents or from malfactors or act of war. Engineered surface storage facilities might also be vulnerable to major climatic changes. They may serve adequately for a limited time, but they may also by their mere existence divert attention from the need for a permanent and final resting place for the wastes. Just as the existing system, whereby the wastes are stored in high-integrity stainless steel tanks with elaborate arrangements for cooling, is satisfactory enough at the moment but recognized as in no sense a final solution, so a system of engineered storage would face a similar charge.

5.6 In our First Report, we expressed our agreement with the Royal Commission's view that storage was not a substitute for disposal, although it was a necessary part of waste management. However, we think serious consideration should be given to the possibility that containment in an engineered storage system might be the best way to deal with solidified high-level wastes for decades or even centuries. It is important here to define the terms "storage" and "disposal" with precision. They were usefully distinguished in the Governments' White Paper, Nuclear Power and the Environment (Cmnd 6820):

*Disposal* was defined as: "dispersal of radioactive waste into an environmental medium or emplacement in a facility, either engineered or natural, with the intention of taking no further action apart from necessary monitoring";

*Storage* was defined as: "emplacement in a facility, either engineered or natural, with the intention of taking further action at a later time, and in such a way and location that such action is expected to be feasible. The action may involve retrieval, treatment in situ, or a declaration that further action is no longer needed, and storage has thus become disposal".

The possibility of adopting this last option was mentioned in para 2.8 of our First Report, where we said that: "Storage is in fact an essential part of the management of high-level wastes and we would not, for example, at this stage rule out the possibility of storing high-level wastes on or near the land surface for very many years. This would facilitate eventual disposal or might even be done in such a manner as to enable the necessary steps eventually to be taken for the storage to become disposal should, at that time, such action be deemed acceptable."

5.7 The Committee has made a qualitative assessment of the different factors involved in choosing between the options of storage, disposal, and a combination of the two. The contrasting advantages and disadvantages of the three options are set out in the table which forms that annex to this chapter. At this stage, a combination of storage followed by disposal would seem to be the best procedure; although the question still remains at what stage the transition from storage to disposal should take place, even if only in the sense of the point in time at which surveillance and arrangements for a degree of artificial cooling will be terminated without the physical removal of the

waste. There are a number of factors to be considered, but our present view is that the transition is unlikely to take place until at least 50 years after the wastes have been vitrified, assuming vitrification itself will take place at least five years after removal of the fuel from the reactor. A more precise estimate cannot be made until further studies enable the main factors to be quantified, and this will in itself clarify the choice between the options. One important factor in determining this timescale is the concentration of the waste in the glass in terms of its activity when vitrification takes place. The lower the activity per unit volume, the shorter the cooling time required, but the greater the volume of waste to be disposed of.

5.8 The sooner the waste is disposed of, the smaller the responsibility placed on future generations. Unless very early disposal becomes the chosen option (and this is not a choice we favour at the moment), it is inevitable that our descendants will have to some extent to deal with nuclear waste from current power programmes. So long as waste requires supervision—a consideration which applies to storage/disposal as well as to long-term storage but to a lesser extent—the continuance of social institutions has to be assumed. However, as the RCEP itself said in respect of the general problem of radioactive waste (Sixth Report, para 179):

Some continuity must be assumed in human affairs and institutions and in the ability of future generations to maintain the necessary containment. To suppose otherwise is to postulate breakdown in our society and our institutions, and thus conditions in which the hazards from radioactive wastes could well appear to be one of the less dire problems facing mankind.

5.9 In view of the importance of satisfactory management of radioactive waste, it would clearly be wrong to take a decision before much more information has been obtained. Even when such information is available, it may not be right to take irreversible steps immediately. It may be better to leave to future generations the flexibility of deciding how and when to dispose of the solidified waste, having ourselves carried out the research and development to provide them with information on the technical options. For, while it is important to gather all the necessary information to select the preferred approach, the timescales involved mean that there is adequate time for a thorough assessment of the options to be made during the considerable period of storage which is necessary. Storage can be engineered using currently available technology, and studies should be vigorously pursued to determine how long such storage can be safely continued

5.10 To sum up, technology already exists to enable waste to be solidified and stored for an unlimited period of time, and if constructed underground at a site meeting appropriate criteria, such a store could eventually become a disposal site (see para 5.6). The ability to store for long periods means that there is no immediate requirement to select a disposal route. We are presently concerned with optimisation of waste storage and disposal. Further research is still needed in order to ascertain the disposal route which is best from the point of view of safety, economy and public acceptability.●

## THE CONTINUING THREAT OF TOXIC CHEMICAL WASTES

● Mr. WILLIAMS. Mr. President, I am highly concerned by accounts in yesterday's newspapers which indicate that the Environmental Protection Agency intends to relax existing regulations governing the disposal of toxic chemical wastes. This announcement follows an earlier reported proposal by the EPA that it will seek the "voluntary" cleanup of existing waste sites throughout the country rather than undertake remedial actions as prescribed in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

In light of the President's proposed budget for the EPA, it becomes painfully evident that this administration does not share congressional concern for the problem of hazardous waste as expressed less than 2 years ago in the passage of the Superfund bill. We can ill afford to ignore this serious problem if we have any concern for the health and well-being of our Nation's citizens and the integrity of our environment. Yet, the administration seems set on a course which places hazardous waste on an extremely low priority.

The proposed reversal of current policy that bans the burrying of drums of hazardous liquids is an affront to the interests of every citizen. The dangers associated with such disposal techniques are well documented in numerous cases of infamous chemical leaks.

One of the greatest threats posed by liquid chemical wastes, the contamination of our Nation's ground water supplies, is clearly illustrated in an article in the March 1928 issue of Discover. The article details the increasing threat to the water supply of Atlantic City, N.J. Atlantic City is undergoing an economic renaissance with renewed population growth and, therefore, is placing ever increasing demands on its water supply. The leaching of toxic chemicals into the Cohansey Aquifer, one of New Jersey's largest and virtually untapped sources of potable water, has already resulted in the contamination of several individual wells and will likely poison the entire supply of Atlantic City if remedial action is not forthcoming. The local municipal utilities authority, while undertaking commendable work, is incapable of developing a solution to this problem without Federal assistance.

This is but one example of the dangers New Jersey and the country face. The Congress has enacted a modest response to help mitigate these dangers and it is now up to the administration to implement this law in an expeditious and conscientious manner.

Mr. President, I ask that the Discover article and an article that appeared in the March 1 New York Times be printed in the RECORD.

The articles are as follows:

TROUBLED WATERS IN ATLANTIC CITY

For countless families in the eastern United States during the early decades of this century, there was no place like Atlantic City, the romantic summer resort on the New Jersey shore. The Boardwalk, the carrousels and the roller coasters, the staid hotels and the gleaming beach drew vacationers by the thousands. Even firsttime visitors found themselves on familiar ground: Atlantic City's streets and institutions had lent their names to that now legendary board game, Monopoly. Here was Park Place; there was Tennessee Avenue. Here was romance. Atlantic City was hot stuff.

But after World War II the town began to go seedy, as more and more tourists chose other vacation spots—or stayed at home and played Monopoly. Then, in 1978, Atlantic City once again came to life, with neon lights and flashy casino hotels marking it as the only gambling town in the East. Last year alone, more than 18 million visitors piled into town, squandering $1 billion before departing. The good life, it seemed, had returned.

Now, just as Atlantic City regains its sparkle, it is facing one of the worst environmental messes in America. An enormous slug of toxic chemicals, dumped into the ground ten years ago, is oozing toward the municipal wells, which provide half the city's water. If nothing is done to stop the spread, the chemicals may contaminate the water supply by the time the tourist season starts this summer. Before then, Atlantic City must have a new water supply or a reliable treatment system. The Environmental Protection Agency has promised to help but has not decided how. Time is running out.

The story is depressingly familiar. Chemical contamination of ground water, the source of drinking water for half the nation, has become America's most urgent environmental problem. During the past decade, contamination has forced the closing of hundreds of private and community wells around the country. Mining, pesticides used in farming, and road de-icing salts all contribute, but some of the worst cases have been caused by the dumping of chemical wastes, which, when mixed or dissolved in rain water, are carried down to the water table. This water flows along slowly within the earth, usually toward streams and rivers, carrying contaminants with it. Consequently, paint thinner poured into a dump and long forgotten may turn up years later in a well half a mile away.

These dangerous chemical legacies will probably threaten communities for years to come. The EPA has estimated that 55,000 active or abandoned dumps contain hazardous wastes, and that more than 54 million metric tons of such wastes are produced each year. Thousands of ponds and lagoons containing chemicals pose another threat to drinking water.

Recognizing the problem, in 1980 Congress levied a tax on the chemical industry to create a $1.6 billion "superfund" for cleaning up dumps. Last October the EPA issued a "hit list" of the 114 worst sites. Price's Pit, the dump that threatens Atlantic City, was in the top ten.

The pit is a harmless-looking 22-acre dump six miles northwest of the city. In 1971 Charles Price, its owner, began accepting shipments of chemical wastes. Some customers left drums to be buried; others drained the contents of tank trucks onto the

bare earth. By the time the dumping was halted, a year and a half later, more than 9 million gallons of chemicals had been poured into the pit.

Soon those chemicals began heading for Atlantic City's wells. The sandy, sievelike earth near the pit allowed the chemicals to percolate down into a water-laden sand formation called the Cohansey Aquifer. From there the pollutants seeped eastward with the ground water, at the rate of about seven inches a day, or half a mile in ten years. The nearest Atlantic City municipal well—Number 13—was just 3,400 feet away.

By 1981 the contents of Price's Pit had disrupted the lives of 35 families living a few miles west of Atlantic City, in Egg Harbor Township. The 35 affected houses all have private wells, some of which became contaminated with benzene, arsenic, and other chemicals that can cause cancer and damage the kidneys, the liver, and the nervous system. Because the chemicals were spreading underground and the wells could not be tested every day, the local health department warned all 35 families that their water might be harmful. Most took the warning seriously. In one house, a hand-lettered sign, complete with a skull and cross-bones, is taped above the kitchen sink for the benefit of visitors: Don't drink the water. Poison. Chemicals. Some families do not use the tap water even for bathing or washing dishes or laundry. Fearful of eating vegetables irrigated with polluted water, many have abandoned their gardens. Tank trucks containing fresh water cruise the neighborhood three days a week, refilling the 15-gallon containers recently supplied to householders by the township.

To Melvin and Dorothy Johnson, who, with their eleven children, lived nearest the dump, it came as no surprise that the well contained what one health official called "off the wall" levels of chemicals. For several years the water had smelled so foul that no one could drink it. It blackened pots, turned the laundry yellow, and at times fizzed like soda pop. In 1977 doctors removed one of Melvin Johnson's kidneys, and last July he died of cancer. No one really knows whether the contaminated water was responsible for Johnson's cancer, but his death has frightened the community. So has the illness of James Garrett, 62, who lives across the street from the Johnsons and whose well has also shown high levels of pollutants. Garrett has been stricken by a form of epilepsy known to occur when the nervous system is damaged by chemicals.

At least for now, the crisis is ending for these families. New Jersey authorities has ordered pipelines extended to their neighborhood to connect them with a different water supply. But the new water will come from the Atlantic City system—which is next in the path of the chemical plume from Price's Pit.

The danger signs are already apparent. Well Number 13 has shown traces of contamination. It has been shut down, along with six others that are closest to the contaminated zone. The five wells remaining in use supply only 50 percent of the city's water; wells formerly provided 90 percent. The other half now comes from a reservoir and requires more treatment than well water requires. Come summer and the vacationers, the city's demand for water, which is now 11 million gallons a day, may rise as high as 18 million. Three of the closed wells will have to be opened again. Furthermore, the vigorous summertime pumping will only hasten the advance of the plume from Price's Pit toward the field of wells.

Atlantic City's twelve usable wells lie along a curving two-mile line that runs east and northeast of the pit. Ten wells draw water from the Cohansey Aquifer, which consists of two sand layers, one atop the other, divided by a band of clay. Chemicals take a long time to pass through clay, so the wells sunk to the lower Cohansey layer may still be safe—unless there are gaps in the clay. The two remaining wells are in the deeper Kirkwood Aquifer, considered safe because it lies beneath 400 feet of clay.

The man in charge of keeping Atlantic City's water clean is Neil Goldfine, 33, head of the Municipal Utilities Authority. Last spring Goldfine hired a team of groundwater experts to study Price's Pit, estimate the shape, course, composition, and speed of the chemical plume, and recommend a plan of action. The scientists drilled about two dozen test wells around the pit, analyzed the water, and fed that information and the pumping records for each municipal well into a computer, which created an approximate map of the plume. Concluding that the plume was encroaching on the municipal well field, the team recommended that new wells be drilled elsewhere, at a cost of $6.5 million. Meanwhile, as a protective measure, Goldfine has installed an activated carbon filtration system designed to remove contaminant molecules from the water.

Although the city's water has remained pure, Goldfine is anxious to start drilling those new wells. Nonetheless, hoping that the EPA will pay part of the bill, he has decided to wait. But the EPA announced in late December that it would spend several months and half a million dollars on its own study of Price's Pit, and that it would also monitor Atlantic City's water quality. The agency set aside $1 million more for activated carbon in case additional filtering became necessary before a long-term solution could be found. The EPA claims that there are alternatives to drilling new wells. Most involve carbon filtration combined with various measures to reduce the amount of pollution that reaches the wells: pumping the contaminated water out of the earth, trapping the plume behind a barrier sunk deep in the ground, or covering the dump with a waterproof cap of clay or plastic to keep rainfall from transporting more contaminants into the ground water.

Some of these remedies are not practical, according to James Geraghty, president of Geraghty and Miller, a national groundwater consulting firm. "I see communities all over the country going through this same painful process of trying to decide what to do," he says. "Unfortunately, they reinvent the wheel much of the time, instead of learning from each other." In other words, each community spends several hundred thousand dollars on a study, which rewells.

High costs usually rule out any other jemedies. Atlantic City now spends $100,000 a year on activated carbon to purify its water; if the water were strongly contaminated, purifying it could, according to Goldfine, cost $100,000 a week. Even then, there is no guarantee that the method will remove all contaminants. And because "safe levels" for some of the chemicals in Price's Pit have not even been determined, it seems too risky to leave any chemicals at all in the drinking water.

Pumping out the pollutants could take decades and cost millions. If the chemicals are dispersed through a rich aquifer like the Cohansey, millions upon millions of gallons of water would have to be drawn from the earth and treated. In the long run, the level of contaminants might be reduced, says Geraghty, but they could probably never be brought to zero.

Caps and barriers are more workable remedies, but they, too, have drawbacks. Barriers eventually crumble, or the plume manages to seep underneath. Capping has proved to be a reasonable way to contain a plume only when the site is small enough to cover and the cap is applied early enough to retard the leaching of chemicals into the aquifer.

By a process of elimination, Goldfine has concluded that the solution for Atlantic City must be new wells. He expects the EPA to reach the same conclusion when it completes its study in May.

While local and federal authorities are trying to decide how to handle the contamination problem, the courts are grinding away at the legal issues. The EPA and the Municipal Utilities Authority are suing Charles Price and the present owner of the dump (Price sold it in 1979), as well as 35 waste haulers and chemical companies whose names appeared in Price's records. A group of families in Egg Harbor Township is also suing the same defendants, along with the state of New Jersey, for having failed to stop the dumping sooner. Although there are legal precedents for apportioning responsibility in cases with so many defendants, it may be years before a decision is handed down. The plaintiffs are determined to wait. "My children grew up drinking this water," says Egg Harbor resident Olivia Dorsey. "Will it mean a shortened life span for them?" Referring to the polluters, she adds, "They owe us. They owe us more than they can ever pay."

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### U.S. Agency Seeks Easing of Rules for Waste Dumps

(By Philip Shabecoff)

WASHINGTON, FEB. 28.—The Environmental Protection Agency has proposed a reversal of current rules that ban the burying of drums of hazardous liquids at landfills for waste disposal. It wants to permit such sites to fill up to 25 percent of their capacity with barrels of toxic liquids.

The agency also said it was suspending the ban for 90 days while comments on the proposal were heard, permitting any hazardous liquids in barrels to be dumped at the landfills in that period.

In a notice sent to the Federal Register for publication, the agency said it wanted to change the rules because the current prohibition on landfill disposal was unworkable. It also said that the rules barring the burial of barrels containing even minute amounts of liquids could create health hazards by requiring barrels of wastes to be opened to see if they contained any liquid.

A coalition of environmentalists and companies involved in waste disposal said they would file a petition against the suspension on Monday.

#### ALTERNATIVE DISPOSAL METHODS

Under the Resource Conservation and Recovery Act, interim standards banning such disposal methods for liquid wastes went into effect last October.

Previously, barrels of toxic liquids could be buried at waste disposal landfills. Disintegrating drums of hazardous chemicals that leaked years after burial in landfills

were blamed for such health problems as the one at Love Canal in Niagara Falls, N.Y.

The changes proposed in the notice sent to the Federal Register last week are being opposed by an unusual alliance of environmentalists and private companies who have invested in alternative methods of liquid waste disposal, such as incineration. The companies object that the Government wants to change the rules after the companies have invested in the alternatives.

Marvin Durning, an attorney for a new trade group called the Hazardous Waste Treatment Council, whose members are companies engaged in incineration and other disposal alternatives, said the council planned to file a petition Monday in Federal District Court in Washington to block the 90-day lifting of the rules.

The council's draft petition said that the proposed change in standards, as well as having an adverse economic impact on its members, would also pose the threat of "imminent public health and environmental adverse consequences."

Mr. Durning, a former chief of enforcement for the E.P.A., said the group hoped to be joined in its petition by the Environmental Defense Fund, a nonprofit group that deals with environmental hazards, including the issue of toxic waste disposal. Khristine Hall, an attorney for the defense fund, indicated that the group would join the council's effort.

GIANT STEP BACKWARD

"This would be a giant step backward," she said of the proposed change. "They are going to let them put the stuff in the ground with no controls. Those things leak. That's why they were banned in the first place."

She also described the Federal agency's initiatives as "flying in the face of a progressive industry" that was engaged in environmentally preferable means of waste disposal.

In its notice, the E.P.A. acknowledged that waste containers eventually degraded when placed in landfills and that their liquid contents leached into the ground. As the drums collapse and disintegrate, then the landfills themselves can sink, allowing more water to collect and increasing the leaching problem.

The agency also stated that it "strongly believes that the introduction of containerized free liquid wastes into landfills should be miminized to the extent possible, if not prohibited."

EVEN ONE DROP IS BANNED

However, the notice went on: "The agency believes that the current prohibition is too extreme for real-world application. In its literal interpretation, landfill disposal of containerized wastes containing only 'one drop' of free liquid is banned. This would often require extraordinary, high-cost management practices to achieve compliance."

The agency said that the proposed formula for letting 25 percent of the volume of hazardous waste dumps consist of chemicals in drums was derived from a proposal by the Chemical Manufacturers Association, which includes most of the major chemical companies, and the National Solid Waste Management Association, made up of of companies that operate waste disposal facilities.

In its petition requesting a stay of the 90-day suspension of the ban, the Hazardous Waste Treatment Council complained that the agency improperly based its decisions on information from parties that would benefit from the decision. It did not specify those parties but it did say that the suspension violated the Administrative Procedures Act, which requires that advance notice be given and comment taken on proposed regulatory action.

The ban on placing drums of hazardous liquids in landfills is part of the "interim" standards established under the Resource Conservation and Recovery Act. The act was passed in 1976 but the environmental agency has yet to decree final standards governing hazardous waste disposal in landfills.●

## SOVIET REPRESSION AND THE CASE OF IDA NUDEL

● Mr. D'AMATO. Mr. President, the rapid deterioration of the Madrid Conference on Security and Cooperation in Europe can be directly attributed to the utterly reprehensible attitude of the Soviet delegation in resolutely blocking any progress. The Madrid Conference has slowly ground to a halt in the face of Soviet attempts to brutally suppress all internal dissent. This clear violation of the final act of the Helsinki Accords, an agreement among nations to which the Soviet Union freely signed, has been characterized by the U.S. Ambassador to Madrid, Max Kampelman, as "sheer hypocrisy"; a view to which I wholeheartedly subscribe.

The Soviet Union, in signing the Helsinki Accords, pledged to respect human rights in both internal and external affairs. I am sure that there is no need to point to the imperial character of the Soviet regime. The attempts to extinguish the people of Afghanistan who would oppose the Soviet invasion as well as the brutal crackdown by the military government in Poland all show the true nature of Soviet "hypocrisy."

What should be of equal concern to the people of the world is the internal repression in the Soviet Union that has little or no equal in the world today. The Soviet authorities, from the birth of the Soviet Union in the Revolution of 1917, have kept tight control over the domestic population through a campaign of terror. To control a host of captive nations, Estonia, Latvia, and Lithuania, to name a few, and virtually all of Eastern Europe, the Soviets have employed ruthless and disgusting tactics on an unimaginable scale. Purges and attempts at Russification have devastated various ethnic groups or national movements. If one were to devise some sort of historical tally of those who have died through ruthless oppression, the Soviet Union would be champion par excellence.

I rise today to speak of one particular group that the Soviet regime appears bent on destroying. This one religion has suffered throughout the history of Soviet oppression and it now appears to be worsening. Jews in the Soviet Union have been the victims of an orchestrated plan of genocide. Jewish emigration, 51,000 in 1979, has come to a virtual standstill. Even requesting permission to leave the Soviet Union can be hazardous. Would be emigrees are harassed, detained and often imprisoned on trumped up charges. Even the use of psychiatric facilities as a means of torture and detention is prevelant.

One example of this inhuman and vicious persecution is being released today from exile in Siberia. A Jew, a refusenik, an activist, a reformer and above all a human being fighting the totalitarian nature of the Soviet regime: Ida Nudel has served close to 4 years of internal exile after being convicted of "malicious hooliganism" under article 206/2 of the Soviet Criminal Code.

This conviction came after she repeatedly protested the denial of an exit visa. Her history is one of continual harassment, arrest, torture and deprivation at the hands of the KGB. A true prisoner of conscience, Ida Nudel has had her life virtually destroyed because she refused to give up the hope of one day living in Israel.

To me, this life of constant threats and abuse, of intolerable living conditions, is incomprehensible. I know it to be true, but it is still difficult to conceive. I appeal to all of my colleagues to continue the fight against this true evil. I know that it is difficult to persevere in the face of total silence from the Soviets. Every inquiry to Ambassador Dobrynin has met with silence, and I am sure that this is the norm rather than the exception. Public outcry and congressional pressure, I am confident, will eventually yield results. We cannot let these people be forgotten.

If I may paraphrase someone who heretofore I would not have been philosophically disposed to cite, Susan Sontag, communism is merely another form of fascism, fascism with a human face.●

## THE SUPPLY-SIDE GOVERNORS

● Mr. JEPSEN. Mr. President, the States, especially large States, make excellent laboratories for testing the soundness of supply-side economics. Comparisons can be made with other States of the factors that cause one State's economy to perform differently from that of a neighboring State. This is particularly true with regard to a State's tax burden.

The Joint Economic Committee heard testimony from five Governors last Wednesday, February 24, and two of them—Governor King of Massachusetts and Governor Carey of New York—gave amazing accounts of the vigorous turnabout in Massachusetts and New York in employment and economic growth as a result of substantial tax cuts in those States. And, despite

the cuts in tax rates, State revenues are growing because of dynamic State economies.

Mr. President, I ask to have printed in the record an editorial from today's Wall Street Journal describing the economic successes of Massachusetts and New York as a result of the application of supply-side principles. I hope this helps all of us to be patient and take heart in the ultimate success of the Reagan economic program at the national level.

The editorial follows:

[From the Wall Street Journal, Mar. 2, 1982]

THE SUPPLY-SIDE GOVERNORS

Massachusetts Gov. Edward King gave remarkable testimony to the Joint Economic Committee of Congress Wednesday, both for what he said and how he got there. Gov. King, a Democrat, brought word to Washington that supply-side economics is working spectacularly well in the Bay State. But Democrats on the JEC didn't want to hear his message, and it took strong pressure from committee Republicans to bring off the hearings on schedule. Even so, Gov. King's fellow Massachusetts Democrat, Sen. Edward Kennedy, was conspicuously absent.

Sen. Kennedy missed hearing how tax cuts by the governor, the legislature and the popular referendum Proposition 2½ have wonderfully revived the state's growth. Far from hurting from the tax revolt, the Commonwealth is reveling in it. As Massachusetts' state and local tax burden has fallen below the national average, its per capita income has soared. Since 1979, when the tax burden started falling, the state's income level has zoomed from an anemic 1.1 percent above the national average to 8.2 percent. Massachusetts has almost regained the advantage it lost in a decade of uncontrolled spending and taxing.

This growth means that Bay Staters can look for jobs instead of welfare. The state unemployment rate has dropped from a level 25 percent above the nation's to one of the lowest among the industrial states. It has added more than 200,000 jobs in the last four years. And its welfare rolls are down. Even though some cities have spectacular fiscal problems, partly the doing of Prop 2½, the state's coffers are jingling. In spite of the recession, state revenue growth in the first five months of this fiscal year has been the greatest in memory. Personal income tax receipts are up nearly 18 percent. Last year's crisis state budget is heading for a $25 million surplus. Thanks to a serious effort to level off the growth in state spending, Gov. King is projecting a fiscal 1983 surplus of $155 million, half of which he wants to use to eliminate a six-year-old surtax on the state income tax.

Skeptics can rejoin that election year budgets should always be suspect and that tax cuts don't necessarily explain the state's growth. Massachusetts is riding the boom in microcomputers and looks like the main beneficiary of what could be the country's structural economic shift from heavy industry to high technology. Yet the connection between soaring taxes and the state's economic collapse is too well documented to ignore. (Supplyside gurus Arthur Laffer and Charles Kadlec spelled it out in detail in an excellent report last year to the Massachusetts Business Roundtable.) And the high technology leaders themsevles, both in the Mass High Tech Council and the Associated Industries of Massachusetts, have insisted strongly that personal tax cuts were the absolute precondition for the growth of their industry in the state.

JEC members could find confirmation in the example of New York State, although when Gov. Hugh Carey testified in the same hearing, he was much more reticent about the success of tax cuts than he is in Albany. Gov. Carey spent most of his time opposing "Reaganomics" and indexing of the federal income tax, supposing that they reduce the federal revenues available for the states. But Rep. Clarence Brown forced Gov. Carey to allow as how, in New York, he had cut the top state income tax rate by better than 50 percent and watched the unemployment rate fall from well above the national average to a shade below. The main difference between "Careynomics" and "Reaganomics" is that Gov. Carey has gone further in the same direction.

The states make better laboratories for this brand of economics, in some respects, than does the federal government. Since macroeconomic trends affect the states across the board, you can single out other factors, like the state's own tax burden, that make Massachusetts and New York perform differently from all the others. and from the way they used to. Gov. King has a lesson to impart from this experience (and so does Gov. Carey, if he would only be more forthright to the rest of the nation about his real accomplishments). It's a shame that Sen. Kennedy and his like-minded colleagues have been so anxious to keep these examples from entering the national economic debate.●

## S. 1018, COASTAL BARRIER RESOURCES ACT

● Mr. CHAFEE. Mr. President, about a year ago, I introduced S. 1018, the Coastal Barrier Resources Act, which will save U.S. taxpayers millions of dollars and, at the same time, protect fragile undeveloped barrier beaches and islands along the Atlantic and Gulf coasts. The central thrust of the bill is to prohibit the Federal Government from providing financial assistance for development on hazardous and unstable undeveloped barriers.

Over the past several months, the Subcommittee on Environmental Pollution, which I chair, has held three exhaustive sets of hearings on the bill, and we plan to mark up the legislation on April 22. Support for the Coastal Barrier Resources Act has come from many quarters. In the Senate, 25 Members have cosponsored the legislation. In the House, where my good friend and colleague TOM EVANS of Delaware has introduced similar legislation, there are over 100 cosponsors. Secretary of the Interior James Watt, on behalf of the administration, has also expressed his strong support for this kind of legislation. A combination of environmental groups, coastal organizations, and State and local governments have also testified in favor of the legislation.

Yet, despite this broad base of support, there are those who have charged that this legislation will infringe on private property rights—that the bill represents some form of land-use planning. This is just plain nonsense.

In no way is this legislation a Federal "land grab." The bill does not authorize acquisition of any lands by the Federal Government. Nor is this legislation a land-use planning scheme. It does not tell private landowners what they can or cannot do within the undeveloped areas of the proposed barrier system. Those who own property on undeveloped barriers have the option to build and develop them as they please—at their own financial risk—not at the risk of the U.S. taxpayers.

Mr. President, recently I have come across numerous editorials from around the country supporting S. 1018. So my colleagues may get a better idea of how this legislation is perceived by editorial writers in several coastal States, I ask that these editorials be printed in the RECORD.

The editorials follow:

[From the Houston Chronicle, Oct. 26, 1981]

NO REASON TO SUBSIDIZE BARRIER ISLAND DEVELOPMENT

Each year the federal government spends millions in taxpayers' money to subsidize private development of coastal barrier islands. It is about time the Congress took a closer look at this unfair expenditure.

Legislation has been introduced that would prohibit federal subsidies on undeveloped islands along the Atlantic and Gulf coasts. This means no federal aid for road and bridge construction, sewer and water systems and other improvements, and no federally subsidized flood insurance that takes much of the risk out of building in a particularly risky area.

The legislation, sponsored by Sen. John H. Chafee, R-R.I., and Rep. Thomas B. Evans, Jr., R-Del., does not call for federal takeover of the coastal islands, nor does it restrict private development. The government has no business telling landowners how to use their land. However, the legislation would take away the subsidies underwritten by U.S. taxpayers and put the financial responsibility where it belongs—upon those who choose to build on these islands.

The barrier islands are fragile and ever-changing, and they are vulnerable, getting the full force of hurricanes and storms, which means expensive development could quickly be reduced to so much debris that would take thousands of dollars in federally subsidized flood insurance to rebuild. And there is no predicting when another storm will hit and require rebuilding once again—with taxpayers helping foot the bill.

As Interior Secretary James G. Watt said in endorsing the legislation, "Taxpayers should not shoulder the recurring costs and high risks of private development of coastal barriers."

Barrier islands already developed, such as Galveston and Miami Beach, would not be affected by the legislation, nor would developed sections of such islands as Padre Island. Rather, the legislation is directed at those islands that now are mostly beach and sand dunes. Presumably, the legislation coincidentally would result in more of these islands remaining in a closer approximation of their pristine state, providing a buffer

against storms for the mainland and offering unspoiled beaches and dunes for the public.

Watt estimates the bill could result in savings to U.S. taxpayers of $5.5 billion to $11 billion in the next 20 years in federal aid for construction on the barrier islands or reconstruction after storms have hit.

The legislation would not halt development of barrier islands still in private ownership; it would merely assure taxpayers that the developers take the risks.

[From Austin, Tex., American-Statesman, Oct. 30, 1981]

BARRIER ISLANDS NEED PROTECTION

Interior Secretary James Watt, for once, found himself on the side of the environmentalists when he testified last week before the Senate Environment and Public Works Committee.

Watt spoke on behalf of S. 1018, the Coastal Barrier Resources Act, praise be. The bill seeks to cut federal subsidies to the barrier islands off the East and Gulf coasts. The bill makes fiscal and environmental sense.

The barrier islands are those constantly-shifting, low-lying islands near the coasts. Many of them have been developed; a few remain unspoiled. The islands act as protective barriers when hurricane tides hit, and their very nature makes them unsuitable for permanent habitation or development. Nevertheless, the federal government has provided subsidized insurance for structures on the islands, and the government subsidizes water and sewer systems and highways for island developments.

The proposed legislation would do several things, all good. It would establish a Coastal Barrier Resources System consisting of undeveloped barrier islands. It would prohibit new federal expenditures or subsidies within the system. It would maintain expenditures for energy facilities, maintenance of navigation channels, air and water navigation aids, emergency disaster assistance and so on.

The legislation won't prevent the private developers from proceeding with plans on the islands, but they would do so at their own risk, not the taxpayers'.

An environmental treasure will be saved, too. The island areas, so hostile to permanent human occupation, are essential to fish and wildlife and are good places for outdoor recreation.

The bill will save money, lives and protect the environment. When it comes before the Congress next year, it should be overwhelmingly approved.

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[From the New Orleans (La.) Times-Picayune, Apr. 30, 1981]

SUBSIDIZING SAND CASTLES

There is no reason why the nation's taxpayers should subsidize the private development of barrier islands in the Gulf of Mexico and off the Atlantic coast. There are, in fact, good reasons why they should not.

The little islands serve as protective barriers, diluting the impact of hurricane tides on coastal communities. The shifting, eroding sands of the fragile strips are not really suitable for development, and the obvious vulnerability of the islands to hurricanes makes them unfit for prolonged human habitation. The use of taxpayers' money to subsidize their development is an unwise and inappropriate expenditure.

Two Republican legislators, Sen. John Chafee of Rhode Island and Rep. Thomas B. Evans Jr. of Delaware, make these points in support of their bills to eliminate federal subsidies for such high-risk ventures. The proposed legislation could save millions of dollars in federal flood insurance subsidies alone by stopping new flood insurance policies from being issued for undeveloped islands. The bills also would eliminate federal subsidies for water and sewer systems and highways.

The two congressmen note that their proposed legislation would not prohibit local governments from zoning barrier islands for development nor stop private developers from proceeding on their own. "What it does say is that if you move ahead, you do so at your own financial risk and not at the risk of the American taxpayer," said Rep. Evans.

Without federal subsidies to pave the way and absorb much of the risk, the folly of investing millions of dollars in the development of the vulnerable barrier islands should become more apparent to those eager to reap a financial windfall from their development.

The two congressmen hope to and should receive the backing of the Reagan administration for their bills. A government pledged to conserving the taxpayers' money should have nothing to do with building castles in the sand.

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[From Mississippi, the Clarion-Ledger, May 1, 1981]

ISLAND FOLLY: BAILING OUT TAXPAYERS

Proposed legislation barring federal subsidies for residential and commercial development of undeveloped barrier islands off the East and Gulf Coasts should be passed by the Congress.

Sen. John Chafee, R-R.I., and Rep. Thomas B. Evans Jr., R-Del., sponsors of the proposal, say enactment of the bill could save millions of dollars in subsidies that now help develop the islands.

The barrier islands—shifting spits of sand that lie off the coast from Maine to Mexico—are often unstable and vulnerable not only to violent ocean storms but also to gradual erosion of wind and tide.

Mississippians have more than a passing interest in the legislation because of current efforts to develop such a fragile strip of land—Deer Island—located only 100 yards off Biloxi's Gulf Coast shore.

The Chafee-Evans bill does not prohibit development of such islands nor does it provide for any land purchases by the government. "What it does say," commented Evans, "is that if you move ahead, you do so at your own financial risk and not at the risk of the American taxpayer."

The proposal would not affect barrier islands already developed, such as Miami Beach. Chafee said the bill would affect about one-third of the 2,700 miles of island shoreline.

Both common sense and experience show that barrier island development is generally imprudent and very risky at best. The islands serve as natural breakwaters, helping reduce the force of violent storms—hence the designation as "barrier" islands. Besides helping protect the shore, the islands, which form marine nursery grounds, are treasures of animal and plant life.

While the proposed legislation does not forbid further barrier island development, it at least would protect taxpayers from subsidizing such foolhardy ventures.

Experts warned Congress last year that many island developments are disasters waiting to happen, insisting that no man-made structure can stand up to the assault of an Atlantic hurricane that sooner or later will hit. Mississippians, with their memories of Hurricane Camille, would heartily agree.

Nevertheless, the federal government provides subsidized insurance for structures that can be blown away in the first big storm. In 1978 and 1979, taxpayers were stuck with claims and expenses in high-hazard coastal zones exceeding premimums paid by a ratio of more than 3 to 1.

The government also subsidizes water and sewer systems and highways for vulnerable island developments.

The bill would bar subsidies for both flood-insurance policies and water, sewer and highway construction on these undeveloped islands.

The proposal merits the combined support of fiscal conservatives and environmentalists. And the Reagan Administration would be doing the country—and itself—a favor by lending its support.

Hearings are expected sometime this summer. I hope the bill thereafter will win speedy approval.

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[From Daytona Beach, Fla., Journal, May 5, 1981]

PROTECTING ENVIRONMENT BY CUTTING THE BUDGET

Federal programs to protect the nation's environment have been criticized by the administration and some in Congress because of their cost. In this period of federal austerity, even highly cost effective environmental protection programs are feeling the budgetary ax.

Such circumstances should make a barrier islands protection bill introduced last week irresistible for Congress and the president. The bill would protect fragile, low lying barrier islands that ring the nation's coasts by cutting off federal funds that subsidize their development.

The bill would save tax money and a key feature of the coastal environment in a single stroke. It would stop development of coastal islands that are best left undeveloped, and would help avert disasters likely to occur when they are.

Barrier Islands that ring much of Florida's and the nation's coasts are the pioneers of the coastal environment. The fragile sand dunes that typically form these islands shift, erode and change constantly. They make barrier islands man's first line of defense against the sometimes hellish fury of ocean storms.

Barrier islands also are highly desirable real estate for residential and commercial development, and the bulk of them, including the beachside in Daytona Beach, have been bulldozed, paved and built upon.

But some barrier islands remain in a relatively untouched state, and there are compelling fiscal and scientific reasons for leaving them that way.

Development these days of many remaining unspoiled barrier islands would be financially impractical if it weren't for enormous federal subsidies for bridges, highways, waterlines, seawalls, flood insurance and so forth. Such subsidies cost taxpayers an estimated $200 million a year, and, if continued, would lead to development of all remaining unspoiled barrier islands by the end of the century.

Continuing to subsidize barrier islands development would be a mistake. It would waste tax money better spent on pressing social needs, and would lead to destruction of islands and their dune systems that protect inland property from hurricanes and

other severe ocean storms. More and more scientists agree that undeveloped barrier islands are best left that way to protect both coastal property owners and the coastal environment.

The Barrier Islands Bill, sponsored by Sen. John Chafee, R-R.I., and Rep. Tom Evans, R-Del., would give barrier islands protection they need and save tax money while doing so. It would cut off federal assistance for barrier island development.

The bill doesn't go as far as a similar measure which failed to pass last year and wouldn't mandate federal acquisition of barrier islands as the earlier bill did. Instead, it calls for a report to Congress on the need for further barrier island protection legislation. The bill is a step in the right direction, and deserves strong support from all who are concerned about saving the environment or saving tax money.

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[From Fort Lauderdale, Fla., Fort Lauderdale News and Sun Sentinel, May 25, 1981]

REAGAN CUTS MAY HELP SAVE BARRIER ISLANDS

America's Barrier Islands are changeable places. They are shaped and scoured by great storms sweeping over them. They also are changed by men who build riskily on them.

Evidence mounts that the development has harmed and spoiled these vulnerable islands, and yet the federal government has encouraged this development through subsidies for bridges, roads, water lines and sewage plants.

What's more, federal flood insurance also has helped island communities to rebuild after a storm has slapped them down.

Now the Reagan administration proposes to withdraw those federal subsidies. The change is overdue. In 1976 President Carter called for an end to federally subsidized projects on barrier islands, and yet many millions were spent on the islands after Carter made his campaign promise.

Florida will benefit significantly from barrier island reform. There are 16 islands in the state large enough to fall under Reagan's proposed policy. Even much-developed Sanibel Island has large untouched areas that can be spared.

Stopping the subsidy is not enough, however, to guarantee that the islands will also be accessible to all Americans. Unless the federal government acquires them the islands can become havens for the wealthy.

The administration has no plans for acquisition. Instead, it hopes to slow development by withdrawing subsidies.

For now, conservation advocates must be content that budget constraint has coincided briefly with environmental good sense.

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[From the Miami Herald, May 2, 1981]

BARRIER-ISLAND BILL A WINNER

Federal austerity this year will force cuts in spending for dozens of worthy programs that are desirable but have been adjudged unaffordable in this era of anti-inflationary belt-tightening.

There is absolutely no excuse, then, for maintaining Federal funding for a group of programs with consequences that are demonstrably undesirable and potentially disastrous.

That's the persuasive rationale offered by sponsors and supporters of legislation introduced in Congress Wednesday to cease Federal subsidies that foster the development of the nation's "barrier islands."

Those are the low-lying islands that parallel much of the Atlantic and Gulf coasts. Miami Beach and Key Biscayne are barrier islands. They've long been lost to development, of course, so they would not be affected under the bill cosponsored by Sen. John Chafee of Rhode Island and Rep. Thomas Evans of Delaware.

A precious few islands have largely escaped development, however. To protect them, the Chafee-Evans bill would end Federal subsidies for projects such as bridges, roads, shoreline stabilization, water pipelines, and low-cost flood insurance.

Left unchecked, such subsidies would cost taxpayers an estimated $200 million a year and would lead to the loss of most of the remaining barrier islands within 20 years. This in turn would have a harmful effect on the environment, particularly on fish and wildlife.

Not surprisingly, then, the Chafee-Evans bill already has attracted broad support from fiscal conservatives and from ecology-minded liberals.

Eventually, many of the less-spoiled islands ought to be acquired by the Federal Government or the states to guarantee their preservation. In the meantime, however, the Government must cease fostering their development through subsidies. The Chafee-Evans bill is a sound way to do that.

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[From the Orlando, (Fla.) Sentinel Star, Apr. 28, 1981]

BARRIER POLICY

Last year, federal legislation designed to protect barrier islands died on the House and Senate floors, the victim of inattention in the last-minute scurrying to go home. Since then, hundreds of new construction projects have been started on these islands that America wears around her neck like some delicate necklace.

Now there is a new effort to protect the barrier islands from the predation of concrete, indoor plumbing and fast-food franchises, and it is coming from another angle, one that is far more likely to succeed in light of the fiscal conservatism afoot in the land.

Legislation being introduced today by Republican Reps. Tom Evans of Delaware and John Chafee of Rhode Island is designed to stop federal programs through which U.S. taxpayers literally underwrite commercial development of barrier islands. This bill would cut off all federal financial assistance for construction of any kind on the islands and would deny federal flood insurance to all such developments.

By addressing the insurance aspects of such projects, the legislation touches one of the great boondoggles that the Reagan administration is only beginning to note with a critical eye. In its 10 years of existence, the National Flood Insurance Program has failed to be the self-sustaining program that was envisioned. In 1979, for instance, the program paid out $482 million in claims but took in only $140 million in premiums.

It was supposed to limit private sector flood losses by offering otherwise unavailable insurance coverage in exchange for strong local building regulations. In fact, however, the program has failed because the requirement for strong local codes was never enforced.

The need to restrict further development of barrier islands, like those fringing Florida's coasts, is not just a matter of aesthetics. It is a matter of life and death. Barrier islands show their real worth when hurricanes and other violent storms throw themselves at the continental land masses. The islands take the brunt of the waves and wind, thus sheltering the inner coastal regions.

When overdeveloped, as is the case in South Florida, the islands also become a nightmare for disaster planners, who must figure out evacuation routes for thousands of people with access to only a handful of severely overtaxed bridges and causeways. And when storms flatten the buildings that should not have been there in the first place, it is the lowly taxpayer who subsidizes reconstruction.

It is past the time to protect the remaining undeveloped barrier islands or, at the very least, to end taxpayer subsidies of their development. It is hoped the legislation aimed at accomplishing that will become the law of the land.

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[From the Georgia Gazette, May 13, 1981]

TRULY CONSERVATIVE

U.S. Sen. John Chafee of Rhode Island has introduced a piece of legislation which, if it becomes law, will help correct some of the most flagrant deficiencies in our use of beachfront land along the Atlantic and Gulf coasts.

The Chafee bill would eliminate governmental subsidy of real estate development on the country's barrier islands. Once it passes, a developer who constructed a road where it can be washed out easily in a storm would bear the full expense of repairing the road when the storm came. A homeowner who put up his house among the sand dunes on an undeveloped island would have to face the threat of storm damage without the security offered by federal flood insurance.

The result of this change in policy would be that people would no longer build in fragile, beachfront areas. Few financial institutions would offer a mortgage for a building that could not be insured, and few insurance companies will take the risk of protecting such a vulnerable piece of property.

During the past three decades, the public has subsidized waterfront construction far more than it realizes. Every time a storm washes away a beachfront house, the public helps pay to rebuild it. Every time a changing shoreline eats into a waterfront highway, the public pays to repair it. And each time it happens, we call it a natural disaster, an act of God. In fact, it's no more a natural disaster or an act of God than if a child went to play on an interstate highway and got hit by a truck. Building permanent structures on flood-prone, unstable land is much like playing in a busy street.

The Chafee bill came up last year in a different form. That proposal would have required that the federal government purchase the remaining uninhabited coastal islands to protect them from the pressures of private land developers. Of course, that idea ran aground on hard times and political opposition from coastal communities which would have lost part of their tax bases.

Another part of the dilemma which no one discussed was that placing the land under federal control did not necessarily mean it would be protected. In 1961 when the Kennedy administration first came to power, (as today under the Republican administration) federal officials faced rising demands for heavier utilization of public land. Public ownership does not equal wilderness. To have placed so many of our islands under one ownership could have placed their future in a precarious position.

At least with many of them under private ownership it seems unlikely that a change in national policy could lead to simultaneous changes in use of the islands all at one time. Diverse ownership seems to offer greater protection than often-fickle federal policy.

The present version of the bill provides a rare combination of environmental protection, lower federal spending and less federal interference in local affairs. It could appeal to both New Englanders and Westerners, to Republicans and Democrats, to developers and conservationists. It does not block development of private land, but it makes it clear that any developer will have to bear the full cost alone.

We hope Sens. Nunn and Mattingly waste no time in joining Chafee as co-sponsors, and we hope that Rep. Ginn lends his name to it when it crosses to the House.

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[From the Columbia (S.C.) Record, July 3, 1981]

BARRIER ISLES PROTECTED

When you get William Buckley and Albert Shanker working the same side of the street, something really special must be afoot. Buckley, the conservative columnist, and Shanker, the union spokesman for teachers, don't usually see eye-to-eye on anything of substance.

Buckley, Shanker and a number of prominent Americans in a variety of disciplines are, however, on the same team when it comes to the Coastal Barrier Resources Act, a thoughtful and significant piece of legislation now before the House Subcommittee on Fisheries and Wildlife Conservation.

"This bill," said Laurence Rockefeller, speaking in behalf of Americans for the Coast and Barrier Islands Coalition, "represents a special blend of fiscal conservatism and resource conservation for an outstanding cause—the protection of America's remaining unspoiled barrier islands."

A key provision of the legislation is that it prohibits new federal expenditures and federal financial assistance, including grants, loans, loan guarantees and insurance.

Charles Ravenel, the Charleston, S.C., investment banker, called the legislation "a tax-saving instrument, a deficit shrinking move, a government regulation reduction and a government decentralization action." He estimated that the federal government spent $750 million on barrier island development over the past three years.

Certainly, subsidizations of that level run counter to the Reagan Administration's philosophy of frugality and less bureaucratic investment in the private sector.

Ellen Kelly, representing the Garden Clubs of America, stressed that point when she said, "In this day when services are being cut for the less affluent, there is much less reason for the more affluent to be underwritten partially by the taxpayers."

Fiscal considerations aside, the legislation has environmental merit in that it would put a brake on federally subsidized development of the barrier islands and, additionally, would require periodic assessments of coastal barrier resources with a view towards their orderly conservation.

Please note, the legislation does not affect the legal availability of mortgages or the abilities of local governments and private concerns to authorize or carry out development of the islands.

The proposed act affects a 42-mile stretch in South Carolina, embodying 30,000 acres. Included are Kiawah, St. Helena, St. Phillips and Daufuskie Islands. The Coastal Barrier Resources Act is a reasonable proposal which gives fiscal conservatives and environmentalists an intriguing opportunity to have their cake and eat it too.

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[From the Morehead City (N.C.) News Times, July 9, 1981]

SAVINGS ISLANDS, MONEY

Introduced in Congress in April was the Coastal Barrier Resources Act, H.R. 3252. The proposed legislation, if enacted, will directly affect North Carolina, therefore it's important that we know what the bill's about.

Primarily, it would bar federal funds (our tax dollars) from going into residential and commercial development of undeveloped barrier islands of the East and Gulf coasts.

It might be argued that, excepting Cape Hatteras and Cape Lookout National Parks, all of our state's barrier islands are developed, therefore the bill would not affect us. There undoubtedly are, however, along our 300-mile coastline, small islands on which no structures have been built, that could be classified as barrier islands. As the hunt for waterfront property intensifies, they could become prime targets for exploitation.

Laurence Rockefeller, testifying in June on H.R. 3252 before the House subcommittee on Fisheries and Wildlife Conservation, says the bill does NOT do the following:

1. It does not affect developed barrier islands (such as Bogue Banks).

2. It does not affect structures in undeveloped island areas. Present residents will continue to get federal aid such as flood insurance.

3. The bill reduces government benefits rather than imposing regulations.

4. It does not affect state Coastal Zone Management programs.

5. It does not affect legal availability of mortgages.

6. Local governments may authorize development, but no federal funding would be available.

Delaware Congressman Thomas B. Evans Jr., one of the sponsors of the bill, says that in 1978 and 1979 claims under the federal flood insurance program, in high-hazard coastal zones, exceeded premiums paid by a ratio of more than 3 to 1. The bill would bar new flood insurance policies for undeveloped islands. Subsidies for water-sewer systems and highways on vulnerable coastal islands would stop.

The bill does not provide for land purchases by the government, prohibit building on the islands, or restict local governments from zoning the islands for development.

"What the bill does say is that if you move ahead, you do so at your own financial risk and not a the risk of the American taxpayer," says Evans. Sen. John Chafee, Rhode Island, a bill sponsor, says, "The bill does not prohibit anybody from doing anything. If they want to build a hotel, that's fine. We're just saying we're not going to subsidize it."

Students of coastal erosion told Congress last year that many island developments are disasters waiting to happen because no man-made structure can stand up to an assault of an Atlantic hurricane.

The bill will affect about a third of 2,700 miles of island shoreline.

Apprehension has been expressed locally about the proposed legislation and in some cases has generated organized expression against it. If the bill is enacted as it now stands, that is unwarranted.

Why should taxpayers on mainland United States pay to put back a hotel built on an island that a storm washes away? The proposed Coastal Barrier Resources Act prohibits federal participation in such NEW enterprises. It maintains assistance for energy, channel dredging, air and water navigation aids, emergency disaster assistance and permits issuance of federal permits for dredging projects, sewage disposal, etc. It's just not going to put in money. It is estimated that this could save the country up to $5 billion over the next 20 years, save lives by keeping the innocent seeker of waterfront property of hazardous locations, and preserve the island environment that helps regenerate the commercial and sport-fishing industries.

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[From the Lexington (N.C.) Dispatch, Jan. 2, 1981]

WASHED AWAY

Barrier islands like those in the beautiful Outer Banks along North Carolina's coast can be delightful places to live and play. Unfortunately, those natural strips of sand between the ocean and the coastline are also in perpetual danger of being flooded or eroded by the sea.

The precarious existence of barrier islands is a matter of concern to residents and commercial developers along the Gulf of Mexico and Atlantic coasts, from Texas to Maine. But according to a report by the Interior Department, it should also concern the American taxpayer. Unless federal policy changes about the development of these island changes, the government will be saddled with the expensive—and unfair—responsibility of keeping them above water.

Barrier islands and peninsulas face two serious enemies. Hurricanes and other severe storms can produce huge tidal surges that wash away everything in their path. Two years ago a storm shifted Oregon Inlet, and part of the two-mile bridge between Cape Hatteras and Ocracoke collapsed 12 inches, cutting off vehicle access. Fortunately, heavily populated islands like Miami Beach have been spared the wrath of major storms in recent decades, but there is no reason to assume that any autumn a billion-dollar storm will not strike.

An even more certain threat to the islands is the gradual erosion of their shorelines, which, unchecked, guarantees the loss of beachfront houses and hotels. Again on the Outer Banks, the Cape Hatteras Lighthouse, a national landmark far more important than any private home or hotel, faces the imminent danger of being washed into the Atlanta Ocean. Just a few years ago the lighthouse was hundreds of feet from the water, but now tides swirl at its foundation.

What greater proof is needed to demonstrate the dangers of continued development of barrier islands? A lighthouse that once was a mile from the water is likely any day to be washed away. The lighthouse hadn't moved an inch; it is the ocean that has nibbled and gnawed at the island's sand.

These dangers do not necessarily require the government to block development on barrier islands. What seems only fair, though is that those who benefit from the sea also bear the burden of defending against it. But Washington has instead consistenly subsidized private shore development and encouraged the belief that it would pick up the pieces after a disaster.

Taxpayers, those of us 300 miles inland have thus made huge investments, relative to the population affected, in bridges to barrier islands and their sewage treatment plants. There is now political pressure to

spend $50 million to replace a causeway near Mobile, Ala., that was destroyed two years ago by Hurricane Frederick—a causeway that serves only a few hundred residents of the Dauphin Island community. Closer to home, the state of North Carolina has authorized $5 million to shore up the Bonner Bridge over Oregon Inlet. Again, the geologists say the effort is futile. This time, however, the state plans not only to stabilize the bridge but to throw in another $6 million which, added to $73 million in federal money, is supposed to stabilize the inlet.

Revising the government's policies toward the barrier islands—throwing money to the waves and sponsoring a federal flood insurance program that charges premiums far below the expected costs of rebuilding after hurricanes—would be politically difficult and, some people argue, injust to the thousands of people attracted to barrier islands in part by implicit promises of federal subsidy. Yet surely it isn't too late to make a distinction between protecting private investments that already exist, and fostering new ones. No one can reasonably ask Miami Beach to pack up and move. But billions in future liabilities could be saved by charging realistic insurance premiums on new construction, by providing incentives for insurance claimants to rebuild out of harm's way, and by shutting off federal dollars to less developed islands.

It is not the business of the government, neither Raleigh nor Washington, to keep people from enjoying expensively maintained barrier islands. By the same token, the government has no responsibility to foot the bill.

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[From the Hartford Courant, Apr. 30, 1981]

COASTAL ISLANDS NEED PROTECTION

Members of Congess don't often get the chance to appear economy-minded and environmentally aware at the same time, so they ought to take advantage of the opportunity to vote for legislation to protect the nation's undeveloped barrier islands.

Several bills have been introduced that would curtail federal subsidies for developing barrier islands. The total number of islands is about 295, ranging in size from 50 acres to more than 100,000 acres. Nine are off the Connecticut coast.

One of the bills—the one introduced by Sen. John Chafee of Rhode Island and Rep. Tom Evans of Delaware—would end most federal money available to subsidize construction projects, such as for bridges, roads and water pipelines, as well as for flood insurance on undeveloped islands. Existing development would not be affected.

It is extravagantly wasteful for the federal government to pay for developing fragile barrier islands and then to help pay for subsequent storm damage and other disaster relief.

At its current rate, development will overtake the remaining unprotected barrier islands by the turn of the century at an estimated cost to taxpayers of about $200 million a year. They shouldn't have to pick up the tab so that the well-to-do can build homes and condominiums in beautiful, but hazardous, areas.

Further, as the islands are developed, wildlife habitats are destroyed and the islands' recreation potential is diminished.

For reasons both ecological and economical, legislation to protect barrier islands should be passed this session.

89-059 O-85-7 (Pt. 3)

[From the Quincy (Mass.) Patriot Ledger, May 4, 1981]

PROTECTING THE COAST

Congress should enact legislation forbidding the use of federal aid for development of barrier islands.

Legislation filed last week by Sen. John Chafee, R-R.I., and Rep. Tom Evans, R-Del., would prevent persons seeking to build on undeveloped barrier islands along the Atlantic Coast and Gulf of Mexico from obtaining federal aid. Homes already built on barrier islands could still be covered by federal flood insurance and existing communities still could receive aid. But not new development.

Such a measure is long overdue. About a third of the barrier shoreline from Maine to Texas already is developed, another third is protected, and another third has yet to be developed and should be protected.

Barrier beaches and islands which protect the coastline should be protected from development, no matter how attractive the lure of having beach homes, restaurants, marinas or other development on them, disturbing the fragile environment, lessening protection to coastal areas and prone to destruction from violent Atlantic and Gulf storms.

It makes no sense for the federal government to continue assisting the construction of bridges, roads, seawalls, water systems and structures on these islands and to insure homes. Yet the federal government has spent millions to subsidize such undertakings—an estimated $500 million alone between 1976 and 1978.

Gov. Edward J. King last year signed a far-sighted executive order to discourage building on Massachusetts' barrier beaches. That order forbids the use of state money and state-administered U.S. grants for construction projects that would encourage development in hazard-prone barrier beaches; allows state antierosion projects only to keep navigation channels open, not to save beach property; says the state will not approve development in flood-prone areas, and will make barrier beaches the state's top priority when buying land for public use.

The federal government should have a similar policy. Not only would it save taxpayers' money, it also would help protect the coastline and could save lives. Time and again, lives are lost and property destroyed on barrier islands during major coastal storms.

The Chafee-Evans legislation would do much to protect barrier islands from development. Its enactment should be part of a change in federal policy.●

## ANCIENT INDIAN LAND CLAIMS ACT OF 1982

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. THURMOND. Mr. President, on Tuesday, February 9 of this year, Senator D'AMATO and I introduced S. 2084, entitled the "Ancient Indian Land Claims Act of 1982," which was referred to the Select Committee on Indian Affairs.

This bill, we believe, provides a fair and equitable resolution of Indian claims in the States of New York and South Carolina arising out of land transfers alleged to have violated the provisions of the Trade and Intercourse Act of 1790. These claims have clouded the titles to real property in several Eastern States, and thereby have imposed a substantial obstacle to the normal conduct of commercial transactions.

On February 19, the South Carolina General Assembly adopted a concurrent resolution memorializing Congress to enact S. 2084 and its companion in the House of Representatives, H.R. 5494. I ask that this concurrent resolution be printed in the RECORD.

The concurrent resolution is as follows:

A CONCURRENT RESOLUTION

(To Memorialize Congress To Enact S. 2084 and H.R. 5494 Which Establish the Ancient Indian Land Claims Settlement Act of 1982)

Whereas the members of the General Assembly have learned that companion bills have been introduced in the Congress which establish the "Ancient Indian Land Claims Settlement Act of 1982"; and

Whereas the number of this bill in the Senate is S. 2084 and the number of the bill in the House of Representatives is H.R. 5494; and

Whereas these bills set up a fair and consistent policy with respect to a purported lack of congressional approval of ancient Indian land transfers and further mandate procedures which will clear the title to lands subject to Indian claims in the states of New York and South Carolina; and

Whereas the effects of this bill will consequently be felt in South Carolina where certain types of Indian land claims are presently pending; and

Whereas the members of the South Carolina General Assembly believe that it would be in the best interest of the people of this State, the Indians involved, and the other interested parties to such claims if S. 2084 and H.R. 5494 are enacted into law: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That the members of the South Carolina General Assembly hereby memorialize Congress to enact United States Senate Bill 2084 and United States House of Representatives Bill 5494 which establish the "Ancient Indian Land Claims Settlement Act of 1982"; and be it further

*Resolved,* That copies of this resolution be forwarded to the President of the United States, to each member of the Congressional Delegation from South Carolina, and to the presiding officers of both houses of the United States Congress.●

## ORDERS AND PROCEDURE FOR WEDNESDAY

Mr. BAKER. Mr. President, there is an order for the Senate to convene at the hour of 10:30 a.m. on tomorrow, is that correct?

The PRESIDING OFFICER. The majority leader is correct.

RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order on tomorrow, the following Senators be recognized on spe-

cial orders not to exceed 15 minutes each: the distinguished Senator from Pennsylvania (Mr. SPECTER); the distinguished Senator from Vermont (Mr. LEAHY); the distinguished Senator from West Virginia, the minority leader (Mr. ROBERT C. BYRD); and the Senator from Tennessee (Mr. BAKER).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, is there an order for transaction of routine morning business on tomorrow?

The PRESIDING OFFICER. I will advise the majority leader that no such order has been entered.

Mr. BAKER. I thank the Chair.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the expiration of the time allocated to the Senators under the standing order and the special orders just provided for or the yielding back of that time, as the case may be, there be a brief period for the transaction of routine morning business to extend not past the hour of 12 noon in which Senators may speak for not more than 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR HARRISON A. WILLIAMS, JR.

Mr. BAKER. Mr. President, may I announce that on tomorrow it is the intention of the leadership to ask the Senate to proceed to the consideration of the so-called Williams resolution at the hour of 1:30 p.m., at which time a quorum call will be requested, which will go live. It is the hope of the leadership that a quorum can be assembled and the Senate can begin debate on the Williams resolution at 2 o'clock. The Senate will continue to debate that resolution until approximately 6 p.m. in the evening. Senators, once again, are urged to remain on the floor during the continuation of that debate.

SENATE JOINT RESOLUTION 142

Prior to that time, Mr. President, either during the period for the transaction of routine morning business or during the time thereafter and before the beginning of the consideration of the Williams resolution, it is the intention of the leadership to ask the Senate to turn to the consideration of Senate Joint Resolution 142, a Senate joint resolution offered by the distinguished Senator from Pennsylvania (Mr. SPECTER) for himself and others. It is anticipated that there will be a rollcall vote on this measure. It is my understanding that this matter has been cleared with the distinguished minority leader and that there is no objection to that procedure on his side.

Mr. President, I will not now repeat the plan of the leadership in respect to the Williams resolution. The outline of that procedure has been spread of record on more than one occasion and has been committed to memorandum form and to letters on both sides of the aisle on numerous occasions prior to this.

## ORDER OF BUSINESS

Mr. BAKER. Mr. President, there is at least one item on the Calendar of General Orders that is cleared for passage on this side of the aisle. I invite the attention of the distinguished minority leader to Calendar Order No. 439, Senate Resolution 83, offered by the distinguished Senator from Hawaii (Mr. MATSUNAGA) and say that we are prepared to proceed to the consideration of that measure at this time if it is cleared on the other side.

Mr. ROBERT C. BYRD. Mr. President, the item has been cleared.

Mr. BAKER. Mr. President, I yield the floor so that the Senator from Hawaii may proceed.

Mr. MATSUNAGA. I thank the distinguished majority leader for yielding.

## RIKIZO HIRANO

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 83) to express the sense of the Senate that the intervention by the Office of Supreme Commander for the Allied Powers in the purge of Rikizo Hirano, was without basis or justification, improper and in violation to its own rules.

The Senate proceeded to consider the resolution.

Mr. MATSUNAGA. Mr. President, I rise today to urge all my colleagues to support a very important piece of legislation, a measure of mine that was recently favorably reported out of the Senate Foreign Relations Committee without amendment. Passage of Senate Resolution 83, which relates to the unfortunate case of the late Honorable Rikizo Hirano, a former Minister of Agriculture in the Japanese Government, would rectify an injustice that has existed for over three decades; an injustice that tarnishes the almost unblemished record of our reconstruction efforts in postwar Japan.

This wrong that I seek to redress is an old one. Soon after the allied occupation of Japan, the Supreme Commander of Allied Powers (SCAP) initiated a series of rules designed to purge undesirable individuals from the Government and political parties of Japan. As prescribed by SCAP, these purges could be implemented in two ways: By either the Supreme Allied Commander or by the Japanese Government itself.

In 1947, Mr. Rikizo Hirano was the Minister of Agriculture and Forestry. Despite his high visibility, his reputation for honesty and moderation was well known, and no attempt was ever made by the Supreme Commander to remove him from participating in the Government. However, Mr. Hirano did have political enemies within the ruling Japanese Cabinet who twice initiated votes against him in order to permanently ostracize him from public life. Both attempts failed.

In January 1948, his political opponents forced yet a third vote and this time succeeded in obtaining a bare 5-to-4 majority. The vote, however, was tainted by controversy. Immediately afterwards, a member of the Cabinet publicly confessed that his vote to purge Mr. Hirano was the result of pressures brought to bear on him by the political opponents of this outstanding Minister of Agriculture.

Mr. Hirano sought redress in the Japanese courts, seeking to effect the protection of due process that we in this country have always enjoyed. On February 2, 1948, the Tokyo District Court granted him the equivalent of an injunction, permanently suspending the purge order.

The matter automatically went before the Supreme Court of Japan, but the court was never permitted the opportunity to review the case, for an official of the Supreme Allied Command ordered the Japanese High Court to reverse the ruling of the lower tribunal. No reason was ever given for the arbitrary SCAP directive which was, in fact, a violation of its own rules against interfering with the Japanese legal system on domestic matters. Nevertheless, citing the SCAP directive, the Japanese Supreme Court immediately reversed the lower court ruling, thus reinstating the purge order which permanently disqualified Mr. Hirano from holding public office, and imposed on him the stigma of dishonor that he unnecessarily carried for over 34 years.

Mr. Hirano, who had valiantly devoted a major portion of his later life to redressing this indignity, passed away last December. His last wish, literally his last words, were concerned with his gallant quest to redeem his good name and to erase the one blot from an otherwise exemplary an outstanding career.

For after that one unfortunate incident, Mr. Hirano continued to remain active in agricultural affairs through a variety of activities. He was the founder and president of Nikkan Nogyo Shimbun, a journal which addresses the agricultural problems of Japan and the world. His other publications include a Japanese translation of "World Without Hunger," by former Secretary of Agriculture Orville Freeman, with whom he met in 1968 to discuss food problems; and a book entitled "New Trials for Japanese Agriculture," which was published in 1971.

Despite his advanced age and ill health, Mr. Hirano also traveled ex-

tensively. In 1976, he visited Korea, where a series of his lectures attracted audiences totaling 50,000 people, and in 1977, he met with then U.S. Secretary of Agriculture Bob Bergland to discuss both food policy and the 200-nautical-mile boundary.

In appreciation for Mr. Hirano's contribution to the world of agriculture, a monument was erected in his honor in his home precinct. The fact that this edifice was built with donations from 1,400 farmers makes it a fitting testimonial to an individual whose lifetime had been selflessly dedicated to public service on behalf of that occupational group.

Mr. President, ours is the only forum that exists in this country or Japan to properly redress this grave injustice. By resolution of this body, we can reafffirm that in postwar Japan, our intention was to encourage establishment of a society governed by the rule of law and founded on the principles of fundamental fairness. In this, we most assuredly succeeded, for today, Japan has a firm heritage of democracy that is viewed with pride by all members of the world community. By acknowledging the wrong that has been perpetrated against Rikizo Hirano, we will be enhancing our own national integrity while restoring the honor that he so greatly cherished in life and so richly deserves in death.

I urge all of my colleagues to vote affirmatively on Senate Resolution 83 so as to pay proper homage to the memory of a virtuous man and an upstanding public servant.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 83

Whereas in 1947, the Honorable Rikizo Hirano was the Japanese Minister of Agriculture and Forestry, and a member of the Japanese Diet; and

Whereas recently released American military records of the occupation of Japan following the Second World War reveal that—

(1) Rikizo Hirano was effectively purged from his positions as Minister of Agriculture and Forestry and as a member of the Diet in the House of Representatives, as a result of the intervention against its own rules, by the Office of the Supreme Commander for the Allied Powers (SCAP) in the Japanese judicial process, and

(2) the intervention of SCAP was without basis or justification in that it violated the Allies' duty to respect the Japanese judicial process in the Japanese administration of the purges, and to carry out the task of teaching the principles of democracy and justice; and

Whereas, the result of the purge was to subject Mr. Hirano to public scorn, humiliation, and loss of honor, as well as loss of public office: Now, therefore, be it

*Resolved*, That in recognition of the egregious harm inflicted upon Rikizo Hirano by the intervention of the Office of SCAP in the Japanese judicial process, resulting in his being purged, and, in recognition of Rikizo Hirano's distinguished career of public service in the affairs of agriculture, wherein his contributions have been lauded throughout the agricultural world, it is the sense of the Senate that the intervention of the office of SCAP resulting in the purge of Rikizo Hirano in 1947 was without basis or justification, improper and in violation of its own rules, and that all records of all United States Government agencies involved should be corrected to clear Rikizo Hirano of any wrongdoing and to restore the honor and reputation of Rikizo Hirano to their rightful standing in his country and in the world.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I thank the majority leader and the minority leader.

Mr. BAKER. Mr. President, I thank the Senator from Hawaii.

Mr. President, there are certain other matters that may be dealt with at this time, I believe routinely.

## MILWAUKEE RAILROAD AND ROCK ISLAND RAILROAD AMENDMENT ACTS

Mr. BAKER. Mr. President, I send to the desk a corrected copy of Calendar Order No. 415, S. 1879, a bill to amend the Milwaukee Railroad Restructuring Act and the Rock Island Transition and Employee Assistance Act and ask that the Senate proceed to the consideration of the corrected version.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1879) to amend the Milwaukee Railroad Restructuring Act and the Rock Island Transition and Employee Assistance Act to facilitate the purchase of lines of bankrupt carriers to provide for continued rail service and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Milwaukee Railroad and Rock Island Railroad Amendments Act".

PURPOSE

SEC. 2. It is the purpose of this Act to continue the effort by Congress to assure service over the lines of bankrupt rail carriers in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations.

FINDINGS

SEC. 3. The Congress hereby finds that it is in the public interest—

(1) to clarify the Commission's existing authority to consider purchase applications and to issue orders involving temporary authority;

(2) to establish procedures to facilitate and expedite the sale of lines of bankrupt carriers to financially responsible persons in instances where the line has been abandoned by the bankrupt carrier or service is not being provided by such carrier, and the prospective purchaser seeks to provide rail service over such line or lines; and

(3) that procedures set forth in this Act be utilized to provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which any such bankrupt rail carrier operates, while at the same time providing safeguards to protect the interest of the estate of the bankrupt rail carrier by requiring payment of a reasonable purchase price.

AMENDMENTS TO THE MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 4. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Any financially responsible person seeking to purchase a line or lines of a bankrupt rail carrier no longer operating as a common carrier, or a line or lines of a bankrupt carrier over which no service is being provided by such carrier, may submit to the Commission an application for purchase of such line or lines if it (i) intends to provide rail operations over the line, (ii) has made a bona fide offer to purchase at a price asserted to be reasonable, and (iii) such offer has been rejected by the trustee. A copy of any application submitted pursuant to this subparagraph shall be simultaneously filed with the bankruptcy court.

"(B) The Commission shall determine, within 15 days after the filing of an application under subparagraph (A) of this paragraph, whether a financially responsible person has made a bona fide offer to purchase a line or lines of a bankrupt rail carrier, as described in subparagraph (A) of this paragraph, and whether such offer has been rejected by the trustee.

"(C) If the parties at any time agree on the amount of compensation for the purchase of a line or lines of a bankrupt rail carrier, a request for approval of the sale shall be filed with the Commission and with the bankruptcy court. If the parties are unable to agree on the amount of compensation, either party may request, within 30 days after the determination of the Commission under subparagraph (B) of this paragraph, that the Commission determine a reasonable purchase price for the line or lines. For the purposes of this subparagraph, a reasonable price shall be not less than net liquidation value of such line or lines, as determined by the Commission. The Commission shall make its determination within 60 days of the request by a party under this subparagraph. The determination of the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (E) of this paragraph, except that the person who has offered to purchase the line or lines may withdraw the offer within 10 days of the Commission's determination.

"(D) The Commission shall require, to the maximum extent practicable, the use of the employees who would normally have per-

formed work in connection with a railroad line or lines subject to a sale under this paragraph.

"(E) The Commission shall, within 15 days of a determination under subparagraph (C) of this paragraph, transmit to the bankruptcy court such determination, unless the offer is withdrawn as provided in subparagraph (C) of this paragraph. Notwithstanding any other provision of law, the bankruptcy court shall approve the sale within 60 days so long as the purchase price is not less than that required as a constitutional minimum for the line or lines.

"(F) No purchaser of a line or lines sold under this paragraph may discontinue service on or transfer such line or lines prior to the end of the 4th year after consummation of the purchase.

"(G) The Commission shall, within 45 days after the date of enactment of the Milwaukee Railroad and Rock Island Railroad Amendments Act, prescribe any regulations and procedures which may be necessary to carry out the provisions of this paragraph.

"(H) For the purposes of this paragraph, a 'financially responsible person' means a person, a State, or a political subdivision thereof (or combination thereof) who is capable of paying the price of a line or lines proposed to be purchased and of covering expenses associated with providing service over the line or lines for a period of not less than 4 years after the commencement of such service.

"(I) The provisions of this paragraph shall apply only to the Rock Island Railroad, as defined in section 103(5) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1003(5)).".

ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS

SEC. 5. Section 122(a) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended by inserting at the end thereof the following: "The Commission shall have authority to authorize continued rail service under this section over the lines of the Rock Island Railroad, until the disposition of the properties of the estate of the Rock Island Railroad.".

CONTRACT RATES

SEC. 6. Section 10713(k)(1) of title 49, United States Code, is amended by striking "and paper)" and inserting in lieu thereof ", but not including wood pulp, wood chips, pulpwood, or paper)".

SEPARABILITY

SEC. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.".

UP AMENDMENT NO. 824

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Kansas (Mrs. KASSEBAUM) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mrs. KASSEBAUM, proposes an unprinted amendment numbered 824.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, insert the following immediately after line 25:

"(D) If more than one application is filed with the Commission pursuant to subparagraph (A) of this paragraph for the same or overlapping lines or portions of such lines, the Commission shall determine the order in which applicants will be given an opportunity to acquire the line, in accordance with the provisions of subparagraphs (B) and (C) of this paragraph. The Commission shall make its determination based upon which offer will best serve the public interest.".

On page 9, line 21, strike "(E)" and insert in lieu thereof "(F)".

On page 10, line 1, strike "(D)" and insert in lieu thereof "(E)".

On page 10, line 6, strike "(E)" and insert in lieu thereof "(F)".

On page 10, line 16, strike "(F)" and insert in lieu thereof "(G)".

On page 10, line 20, strike "(G)" and insert in lieu thereof "(H)".

On page 11, line 1, strike "(H)" and insert in lieu thereof "(I)".

On page 11, line 17, insert "(a)" immediately before "Section 122(a)".

On page 11, insert the following immediately after line 23:

"(b) Section 120(a) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1015(a)) is amended by striking "2-year" and inserting in lieu thereof "3-year".

● Mrs. KASSEBAUM. Mr. President, my amendment provides for the situation where more than one application is filed with the Interstate Commerce Commission to set the purchase price for the same or overlapping lines of the Rock Island Railroad. Specifically, it provides that where the Commission receives more than one such application, it shall decide which application to process first on the basis of which application best serves the public interest.

My amendment also extends by 1 year the Commission's authority to order directed service over the Rock Island's commuter lines in Chicago. This extension is necessary in order to permit the RTA, which is operating the lines, and the trustee of the Rock Island to negotiate the final details of an agreement to transfer the lines to RTA.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas (Mrs. KASSEBAUM).

The amendment (UP No. 824) was agreed to.

● Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is acting today on S. 1879, legislation I introduced in an effort to promote continued rail service in Kansas and throughout the Midwest.

Those of us representing States that were formerly served by the Rock Island Railroad know how essential freight rail service is to the economic health of our States. In Kansas alone, the Rock served nearly 40 percent of the total commercial grain storage capacity. If the farmers who use rail service are forced to switch to trucks, the per bushel cash price offered to them will be reduced by 5 to 17 cents.

Since the demise of the Rock Island many other rail carriers have helped fill the gap by operating under temporary authority issued by the Interstate Commerce Commission. In the meantime, carriers who are interested in purchasing portions of the old Rock Island have engaged in negotiations with the trustee of the bankrupt Rock Island estate. Unfortunately, the parties to these negotiations have been unable to agree to an acceptable purchase price. The impasse in negotiations has already resulted in the termination of service over a 750-mile stretch of the Rock Island Line being operated under temporary authority by the Oklahoma-Kansas-Texas Railroad. While I hope that negotiations between the OKT and the trustee for purchase of this line will continue, the fact remains that nearly 2 years have passed since Congress passed the original Rock Island bill which was intended to expedite the sale of the viable line. The bottom line is that service has discontinued, much to the detriment of shippers, jobless rail employees and Rock Island creditors.

When Rock Island legislation was enacted by the 96th Congress, there were hopes that the trustee and the creditors would try to sell all the property as soon as possible. Unfortunately, out of 3,500 miles of lines that were expected to be transferred, only 300 miles have actually been sold. This has occurred even though most Rock Island properties are of little or no value for use other than as a railroad, and, generally, there is only one carrier wishing to purchase a line segment.

Negotiations have not succeeded principally because of differences of opinion regarding the value of the rail lines the carriers seek to purchase. Unless we establish a forum able to accommodate the unique public interest in continued rail service, we will suffer economic dislocations and inefficiencies throughout the Midwest. Therefore, this bill establishes a procedure whereby either party involved in the negotiations can ask the Interstate Commerce Commission to establish a purchase price for the line which will become binding unless the offeror withdraws his offer within 10 days of the Commission decision.

I recognize that the creditors have a special interest in being compensated in accordance with the just compensation requirements of the fifth amendment to the Constitution. The bill adequately accommodates this need by providing for court review of the ICC's determination of the value of the line to insure that there is no consitutional violation. During Commerce Commit-

tee hearings on this bill, both the ICC and the Federal Railroad Administration testified in support of the bill and in support of its constitutionality. In addition, the Justice Department has indicated that it has no objection to S. 1879.

Mr. President, I am grateful for the support of the Commerce Committee and the full Senate in moving forward with this legislation. I have a minor amendment to offer to this bill today, and it has been cleared. It deals with the procedure for the ICC to follow in the event of competing purchase offers for a portion of the Rock Island Line and the ICC's authority to order directed service over commuter lines. I urge my colleagues in the House of Representatives to act quickly on this much needed legislation.●

● Mr. DOLE. Mr. President, let me first say that this Senator appreciates the fine work performed by my colleague from Kansas, Senator KASSEBAUM, and by other Senators on the Commerce Committee in ushering this bill through committee and onto the floor in such timely fashion. The speedy manner in which this bill was handled indicates the degree of urgency that we are confronted with out in the grain producing States.

The Rock Island Railroad commenced bankruptcy proceedings in March of 1975, shortly after President Ford took office. Passage of time has been marked by intricate legal and political maneuvering, culminating this very day in the Supreme Court's decision regarding the Rock Island Transition and Employee Assistance Act, passed by Congress in 1980.

It will come as no surprise to most of you that Kansas and other Midwestern States produce a large volume of grain and other agricultural commodities. Suffice it to say that rail service has grown to play a very large role in our system of transportation, and that it has proved especially viable as a means of transporting these agricultural commodities.

Having been on agricultural committees in either the House or the Senate for the past 21 years, this Senator can say with confidence that the effects of permanent abandonment of rail service would be devastating to farmers and farm communities. And agriculture is certainly not the only industry affected by rail service; it does happen, however, that the increased transportation costs stemming from alternative modes of transportation cannot be absorbed by the markets, nor passed on in their entirety to consumers. Mr. President, in this economic climate, we cannot ask the farmers, already saddled by exorbitant interest rates, to bear the financial burdens attendant to abandonment of rail service in the farm areas.

Increased transportation costs are not the only effect of rail abandonments. Some commodities, because of unique physical or marketing characteristics, will not be able to be moved at all. Furthermore, movement of those commodities capable of being moved by truck will result in further deterioration of our Nation's highways and more inefficient use of our limited supply of fuels. In short, secondary reverberations will be felt throughout the economy.

Mr. President, some of us have been saying for years now that we will do everything that is feasible to insure the future of rail service in the Midwest. We are not now asking the Government to step in and run the railroad—or bail it out of bankrupt status. All we are trying to do is establish a procedure to facilitiate the purchase of lines by willing and able carriers or shippers so that continued rail service can be provided.

In light of today's Supreme Court ruling, this Senator recognizes that the constitutionality of this bill must be addressed. There is potential for arguing that we are creating the possibility of a constitutionally prohibited taking of the property of the bankruptcy estate. In this Senator's opinion, there is ample protection that the trustee will receive the constitutionally guaranteed minimum for all property that is sold.

Mr. President, this is not a complicated bill. It simply provides that when the trustee in bankruptcy and interested purchasers are not able to successfully negotiate a purchase price, the ICC can establish a price upon application of the interested purchaser. This bill strengthens the previous legislative scheme and will hopefully help bring about an end to this 7-year-old Rock Island controversy.●

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, read a third time, and passed, as follows:

S. 1879

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Milwaukee Railroad and Rock Island Railroad Amendments Act".

PURPOSE

SEC. 2. It is the purpose of this Act to continue the effort by Congress to assure service over the lines of bankrupt rail carriers in instances where rail carriers are willing to provide service over such lines and financially responsible persons are willing to purchase the lines for continued rail operations.

FINDING

SEC. 3. The Congress hereby finds that it is in the public interest—

(1) to clarify the Commission's existing authority to consider purchase applications and to issue orders involving temporary authority;

(2) to establish procedures to facilitate and expedite the sale of lines of bankrupt carriers to financially responsible persons in instances where the line has been abandoned by the bankrupt carrier or service is not being provided by such carrier, and the prospective purchaser seeks to provide rail service over such line or lines; and

(3) that procedures set forth in this Act be utilized to provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which any such bankrupt rail carrier operates, while at the same time providing safeguards to protect the interest of the estate of the bankrupt rail carrier by requiring payment of a reasonable purchase price.

AMENDMENTS TO THE MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 4. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Any financially responsible person seeking to purchase a line or lines of a bankrupt rail carrier no longer operating as a common carrier, or a line or lines of a bankrupt carrier over which no service is being provided by such carrier, may submit to the Commission an application for purchase of such line or lines if it (i) intends to provide rail operations over the line, (ii) has made a bona fide offer to purchase at a price asserted to be reasonable, and (iii) such offer has been rejected by the trustee. A copy of any application submitted pursuant to this subparagraph shall be simultaneously filed with the bankruptcy court.

"(B) The Commission shall determine, within 15 days after the filing of an application under subparagraph (A) of this paragraph, whether a financially responsible person has made a bona fide offer to purchase a line or lines of a bankrupt rail carrier, as described in subparagraph (A) of this paragraph, and whether such offer has been rejected by the trustee.

"(C) If the parties at any time agree on the amount of compensation for the purchase of a line or lines of a bankrupt rail carrier, a request for approval of the sale shall be filed with the Commission and with the bankruptcy court. If the parties are unable to agree on the amount of compensation, either party may request, within 30 days after the determination of the Commission under subparagraph (B) of this paragraph, that the Commission determine a reasonable purchase price for the line or lines. For the purposes of this subparagraph, a reasonable price shall be not less than net liquidation value of such line or lines, as determined by the Commission. The Commission shall make its determination within 60 days of the request by a party under this subparagraph. The determination of the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (F) of this paragraph, except that the person who has offered to purchase the line or lines may withdraw the offer within 10 days of the Commission's determination.

"(D) If more than one application is filed with the Commission pursuant to subparagraph (A) of this paragraph for the same or overlapping lines or portions of such lines, the Commission shall determine the order

in which applicants will be given an opportunity to acquire the line, in accordance with the provisions of subparagraphs (B) and (C) of this paragraph. The Commission shall make its determination based upon which offer will best serve the public interest.

"(E) The Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line or lines subject to a sale under this paragraph.

"(F) The Commission shall, within 15 days of a determination under subparagraph (C) of this paragraph, transmit to the bankruptcy court such determination, unless the offer is withdrawn as provided in subparagraph (C) of this paragraph. Notwithstanding any other provision of law, the bankruptcy court shall approve the sale within 60 days so long as the purchase price is not less than that required as a constitutional minimum for the line or lines.

"(G) No purchaser of a line or lines sold under this paragraph may discontinue service on or transfer such line or lines prior to the end of the 4th year after consummation of the purchase.

"(H) The Commission shall, within 45 days after the date of enactment of the Milwaukee Railroad and Rock Island Railroad Amendments Act, prescribe any regulations and procedures which may be necessary to carry out the provisions of this paragraph.

"(I) For the purposes of this paragraph, a 'financially responsible person' means a person, a State, or a political subdivision thereof (or combination thereof) who is capable of paying the price of a line or lines proposed to be purchased and of covering expenses associated with providing service over the line or lines for a period of not less than 4 years after the commencement of such service.".

ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS

SEC. 5. (a) Section 122(a) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended by inserting at the end thereof the following: "The Commission shall have authority to authorize continued rail service under this section over the lines of the Rock Island Railroad, until the disposition of the properties of the estate of the Rock Island Railroad.".

(b) Section 120(a) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1015(a)) is amended by striking "2-year" and inserting in lieu thereof "3-year".

CONTRACT RATES

SEC. 6. Section 10713(k)(1) of title 49, United States Code, is amended by striking "and paper)" and inserting in lieu thereof, ", but not including wood pulp, wood chips, pulpwood, or paper)".

SEPARABILITY

SEC. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NATIONAL PTA MEMBERSHIP MONTH

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 105, a resolution proclaiming October 1982, as National PTA Membership Month.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the resolution from the Senate (S.J. Res. 105) entitled "Joint resolution to designate October 1981 as 'National P.T.A. Membership Month'", do pass with the following amendments: Page 2, line 3, strike out "1981", and insert: "1982".

Amend the title so as to read: "Joint resolution to designate October 1982 as 'National P.T.A. Membership Month'".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

## NATIONAL PEACH MONTH

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 91, a resolution proclaiming July 1982, as National Peach Month.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the resolution from the Senate (S.J. Res. 91) entitled "Joint resolution to designate July 1981 as 'National Peach Month'", do pass with the following amendments: Page 2, line 4, strike out "1981", and insert "1982".

Amend the title so as to read: "Joint resolution to designate July 1982 as 'National Peach Month'".

Mr. BAKER. Mr. President, I move the Senate concur in the House amendments.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, Senate Joint Resolution 91 establishes the month of July 1982, as the National Peach Month. The action taken by the Senate today clears the Senate-originated measure for the President's signature. I am pleased to be a cosponsor of this legislation.

Some of the finest peaches in the world are grown in the eastern panhandle of West Virginia. I know the entire State will proudly celebrate National Peach Month this summer. Again I say that I am indeed proud to be a cosponsor of this measure.

Mr. BAKER. I thank the distinguished minority leader for his elaboration on this point.

Mr. ROBERT C. BYRD. Furthermore, Mr. President, I assure the distinguished majority leader that before the year is out I will present him with a bushel of the finest peaches grown in West Virginia or anywhere in the world.

Mr. BAKER. I look forward to that. I will reciprocate the offer, Mr. President.

I have one peach tree in my yard in Tennessee. That tree each year faithfully produces an annual peach.

Mr. ROBERT C. BYRD. Mr. President, would the distinguished majority leader also allow me to have a sprig off of his annual peach tree?

Mr. BAKER. Yes, provided it does not jeopardize the one peach I receive as the entire crop.

Mr. ROBERT C. BYRD. Mr. President, I would refer again to my offer to present the distinguished majority leader with a bushel of West Virginia peaches. I place one condition on that offer. That condition is that the most eminent photographer on Capitol Hill, the distinguished majority leader, assures me that he will take a photograph of that presentation and that he will have that photograph framed for me to mount in my office.

Mr. BAKER. I can assure the minority leader that I will be grateful for the peaches, grateful for the opportunity to take a picture, and honored that he would consider hanging it in his office.

I was fearful that he might ask for half of my crop of peaches. In view of the difficulty of dividing that peach with accuracy and precision, and dedicated to justice and equity as we both are, I am relieved that he did not put that request.

## EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are certain items on today's Executive Calendar that have been cleared on this side of the aisle. I wonder if the minority leader is in a position to consider any of the nominations that are so listed. I especially invite his attention to those nominations beginning with No. 616 under Interstate Commerce Commission and proceeding through pages 3, 4, and 5, including Nominations Placed on the Secretary's Desk.

Mr. ROBERT C. BYRD. Mr. President, the minority is not ready to proceed with the nominations on page 2, but the minority is ready to proceed with the nominations on page 3 under Equal Employment Opportunity Commission and going through page 4 and page 5, Nominations Placed on the Secretary's Desk.

## EXECUTIVE SESSION

Mr. BAKER. Mr. President, in view of that, I ask unanimous consent that the Senate now go into executive session for the purpose of considering all the nominations beginning on page 3 under Equal Employment Opportuni-

ty Commission and continuing through page 5 as described by the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations just listed be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Cathie A. Shattuck, of Colorado, to be a Member of the Equal Employment Opportunity Commission for the term expiring July 1, 1985.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned in his current grade to a position of importance and responsibility designated by the President under subsection (a) of section 601:

Lt. Gen. James H. Ahmann, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

IN THE ARMY

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

*To be major general*

Brig. Gen. Calvin G. Franklin, xxx-xx-xxxx xxx-....

*To be brigadier general*

Col. Donald E. Edwards, xxx-xx-xxxx.
Col. Ernest R. Morgan, xxx-xx-xxxx.

IN THE NAVY

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of admiral within the contemplation of title 10, United States Code, section 601, for appointment while so serving as follows:

*To be admiral*

Vice Adm. Kinnaird R. McKee.

IN THE MARINE CORPS

The following-named brigadier generals of the Marine Corps for promotion to the permanent grade of major general, pursuant to title 10, United States Code, section 624, subject to qualification therefor as provided by law:

Roy E. Moss. Clayton L. Comfort.
Joseph J. Went. James J. Mcmonagle.
Raymond A. Shaffer.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning John L. Bradley III, to be lieutenant colonel, and ending Victor R. Schwanbeck, to be lieutenant colonel, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Army nominations beginning Rudolph E. Abbott, to be colonel, and ending Beth J. Zumberge, to be Major, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 8, 1982.

Army nominations beginning Bobby A Boorigie, to be colonel, and ending William M. Sharman, to be lieutenant colonel, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Army nominations, beginning Gerard P. Conva, to be colonel, and ending Harry L. Shriver, to be lieutenant colonel, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Marine Corps nominations beginning Rodney M. Hale, to be second lieutenant, and ending Harald A. Moertl, to be second lieutenant, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Marine Corps nominations beginning Helen Budler, to be second lieutenant, and ending David K. Perdue, to be second lieutenant, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Navy nominations beginning Raymond Walter Addicott, to be captain, and ending Kenneth Lee Vansickle, to be captain, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Navy nominations beginning Carl V. Catlin, to be commander, and ending Alexander Funke, to be ensign, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Navy nominations beginning Barry M. Amos, to be lieutenant commander, and ending Roger T. Zeimet, to be lieutenant commander, which nominations were received by the Senate on February 18, 1982, and appeared in the CONGRESSIONAL RECORD of February 22, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe there is an order for the Senate to convene on Thursday at 10:30 a.m.

The PRESIDING OFFICER. The Senator is correct.

## ORDER FOR THE RECOGNITION OF SENATOR SPECTER ON THURSDAY, MARCH 4, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that on Thursday, after the recognition of the two leaders under the standing order, the distinguished Senator from Pennsylvania (Mr. SPECTER) be recognized under a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BAKER. Mr. President, today has been a busy day. This has concluded the list of items that I have on my calendar that can be disposed of at this time.

I will not now repeat the schedule of business for the Senate on tomorrow. It has been spread of record adequately in statements heretofore.

May I conclude this day's activities by saying that tomorrow begins consideration of the resolution on Senator WILLIAMS. I do not know what judgment the Senate will pronounce, but I do believe that every Member of the Senate joins me in expressing our understanding of this situation and our sympathy for the conditions that require us to proceed with this item on tomorrow and to wish him well.

Mr. ROBERT C. BYRD. Mr. President, I have one question of the majority leader. It is my understanding that if the Senate has not completed action on the Williams resolution by the close of business Thursday, that matter will go over until Monday next. Will there be votes on Friday or will there be a Senate session on Friday?

Mr. BAKER. There will not be votes on Friday. There perhaps may be a session of the Senate on Friday. I would hope to have a further announcement to make in that respect on tomorrow.

Mr. ROBERT C. BYRD. I thank the majority leader.

## RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. BAKER. Mr. President, I have no further business to transact. I will inquire of the minority leader if he has further business.

Mr. ROBERT C. BYRD. I have none.

Mr. BAKER. In view of the fact that no Senator is seeking recognition and there is no further business to consider at this point, I move, in accordance with the previous order, that the Senate stand in recess until 10:30 a.m. tomorrow.

The motion was agreed to; and at 6:47 p.m., the Senate recessed until Wednesday, March 3, 1982, at 10:30 a.m.

## NOMINATIONS

Executives nominations received by the Senate March 2, 1982:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Thomas A. Bolan, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1982, vice Richard R. Swann, term expired.

## CONFIRMATIONS

Executive nominations confirmed by the Senate March 2, 1982:

DEPARTMENT OF STATE

James Daniel Theberge, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Cathie A. Shattuck, of Colorado, to be a Member of the Equal Employment Opportunity Commission for the term expiring July 1, 1985.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE NAVY

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of admiral within the contemplation of title 10, United States Code, section 601, for appointment while so serving as follows:

*To be admiral*

Vice Adm. Kinnaird R. McKee, U.S. Navy.

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Col. Ernest R. Morgan, xxx-xx-xxxx

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Lt. Gen. James H. Ahmann, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

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Navy nominations beginning Barry M. Amos, to be lieutenant commander, and ending Roger T. Zeimet, to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 22, 1982.

IN THE MARINE CORPS

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Marine Corps nominations beginning Helen Budler, to be second lieutenant, and ending David K. Perdue, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 22, 1982.

# EXTENSIONS OF REMARKS

## THE AGONIES OF IRELAND

HON. THOMAS S. FOLEY
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. FOLEY. Mr. Speaker, there follows the last in that outstanding series of articles, "The Agonies of Ireland" which the Philadelphia Inquirer published late last year. I can think of no more important series put out by the American press in recent memory, and I commend the Philadelphia Inquirer for this service to our citizens so they may better understand the ongoing tragedy in Northern Ireland.

[From the Philadelphia Inquirer, Dec. 22, 1981]

THE AGONIES OF IRELAND: WHAT CAN AMERICANS DO?

"Too many Irish-Americans are buying guns and bombs to kill Irish children, women and men—viciously or naively. Even those who aren't all seem to be living in some distant, mythic past. They're trying to relive the 1916 of their fathers or grandfathers, or 1798 or 1690 or some other time in between or before. Those times no longer exist. Too often, to those who are devoting their lives to Ireland's present and future, Irish-Americans seem to give not a damn about the human realities of Ireland today."—Senior official, government of the Irish Republic, October 1981.

"Communication between the government of the [Irish] Republic and its potential allies in America, that is, the larger Irish-American community, has been virtually nonexistent when it was not merely negative or patronizing."—Dennis Clark, scholar of Philadelphia's Irish-American history, in a 1980 address to an American Committee for Irish Studies conference.

The great Irish diaspora, nowhere in greater numbers than to America, is an eternal guarantee of personal involvement in Ireland's destiny by people beyond its shores.

Twenty million, arguably 40 million, Americans can trace roots to Ireland. It is inevitable and honorable that they be concerned. Millions of other Americans have deep affection for Ireland for its beauty, its literature, music, culture and charm, in both reality and myth.

It is proper then that Americans want to help, to do something.

What?

First and above all else, to be constructive demands understanding. There is great truth in both the statements at the top of this column. Yet they demonstrate a tragic, abysmal gap of understanding between many Irish-Americans and the people in Ireland responsible for its future.

The present principal agonies of Ireland took 400 years—it can be argued 2,400—to produce. They will not be brought to peaceful rest swiftly.

The most dramatic manifestation of the woes of Ireland lies in the political separation of six counties of the northeast from the 26 counties of the Irish Republic.

The most obvious—and yet, historically and continually, the most elusive—fact of that division is Northern Ireland's more than one million Protestants, who live uneasily with slightly fewer than 500,000 Catholics.

The Ulster Protestants are a hardy, diligent people, if unattractive in many ways to others in and outside Ireland. To rid the island of them is impossible, short of the sort of "solution" that Nazi Germany sought to impose on the Jews, leaving the most brutal scar of modern history. No one sane, no one at all except the most pathological elements of the Provisional Irish Republican Army, even hints at such a holocaust.

The most significant truth about those Protestants is that they will not be coerced out of their homes of 10 generations and more or into the Irish Republic. They have demonstrated that for two centuries to the frustration of great numbers of well-intentioned men and women—Irish and British alike. Why? Many of them truly believe that if they were swept into a united Ireland tomorrow they would be brutally subjugated or annihilated. That is what the IRA terrorists are telling them, they believe, with their assassinations and bombings. They are ready to fight and die.

Those Protestants are a legacy of British imperial domination, exploitation and, painfully often, condescension. They are the last significant residue of a millenium of a British garrison on Irish soil. And so their presence evokes and refuels a powerfully resilient passion in the hearts of many Irish Catholics, north and south—and perhaps most strongly of all those outside Ireland.

Underlying every other truth and myth of Ireland is that rage. Through the great literature of Ireland, anger boils, with the eternal promise of only temporary, explosive relief. The songs of Ireland, the stories told Irish children, speak eloquently of deprivation, and of yearning, deprivation's legacy.

Deprivation of what? Of Irishness, of a religious heritage, of a sense of cultural, political, personal integrity. The yearning lingers. There is great beauty in it. What is more moving than unconquerable human spirit?

What does it feel like? Yearning and sureness of destiny. The sort of thing words do not explain, which language can only celebrate.

There is an old Irish nationalist catechism. It's still taught to children. Part of it:

Q. What is the opposite of heaven?
A. Hell.
Q. What is the opposite of Ireland?
A. England.

And so there is rage, and its preserved product, hate. They are deepest among people who have learned them in trusting childhood, and who have not found the need or a way to grow out of them. When they are expressed in the conflicts within Ireland, north and south, or from faraway America, they damage, more than anyone else, the people of Ireland. Tragically, they impede, more than anything else, the prospects for ultimate reconciliation and unification of Ireland's peoples. The struggle for progress is not a conflict between British and Irish interests. It is the challenge of dealing with the Protestant Irish.

Trust is needed. Trust in the earnest men and women who know, and say in every way they know how, that peace and patience and seeking common purpose are the only hopes for making Ireland whole and healed.

Rage and trust are the two most volatile substances of all human experience—more difficult to manage than love or ambition, lust or greed. The volatility of rage is to explode, damaging without purpose or focus. The volatility of trust is to dispel into vapor and disappear with the first exposure to heat.

Yet if there is to be any rational hope for peace and reconciliation in Ireland—most certainly, if there is to be any possibility of moving substantively toward confederation or ultimate unification of the two Irelands—there must be trust and an end to the tyranny of rage.

That is an Irish problem first, and a British one second—for whatever the residual rage tells Americans, the preponderance of British politicans and people would far rather be rid of the problem of Northern Ireland than not. The province is costing British taxpayers $3 billion a year more than its total tax payments. It's a drain.

It also is an American problem, for Americans and America have great influence, for good and bad. It is clear what Americans should not do if they have any respect for human life, or any hope for peace and unity.

They cannot respect any of those ideals and also support the IRA or other terrorist groups.

The principal groups active in the United States and identified consistently by the government of the Irish Republic and U.S. authorities as IRA fund-raisers are Irish Northern Aid (Noraid) and the Irish National Caucus. They and other smaller groups which nourish violence and supply guns and munitions to terrorists don't always openly declare that intent. Often, they trade cynically on appeals to the genuine good will of Americans.

But what can Americans do beside using their moral force to combat the violence merchants?

Ultimately, the most valuable thing is to learn the objective truths of Ireland's struggle today—and in doing so, to turn from the Tyrant History toward constructive, humane contributions to the future. Nothing is more valuable than personal contact. Ireland is a grand place to visit, and the surest source of understanding about its realities.

There are a substantial number of American politicians of both parties who have followed that imperative. Many in the Congress belong to a coalition called the "Friends of Ireland." They deserve support.

Beyond that, there are any number of avenues. The Catholic Church is active. Any priest who condemns all violence, as does the entire hierarchy of the church in Ireland, America and Rome, can recommend charities that are insulated from terrorists'

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

exploitation. Presbyterian, Episcopalian, Methodist and other church groups have charitable efforts.

Two nonsectarian charities in America have been warmly supported by authorities in the Irish Republic and in Northern Ireland. They are the Ireland Fund, 40 Crane Ave., White Plains, N.Y. 10603, and Ireland's Children Inc., Bronxville, N.Y. 10708. Cooperation North, 56 Fitzwilliam Square, Dublin 2, Eire, is a responsible organization founded to serve the interests of cross-border peace and economic, educational and social cooperation.

Finally, and most importantly, the U.S. government, with the support of the American people, can make major contributions to healing and progress, north and south. That will be addressed here tomorrow, in the last of this series of editorials and columns.

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[From the Philadelphia Inquirer, Dec. 23, 1981]

THE AGONIES OF IRELAND: AN AMERICAN IMPERATIVE

What should the United States do about Ireland?

It should do all possible and practical to ease the historic, and today murderously violent, tensions between the alienated elements of the island. The imperative is to help Ireland achieve peace and prosperity.

That cannot be easy. A series of articles on these pages, of which this is the last, has defined the difficulties. What of the future?

The more than one million Protestants of Northern Ireland will not vanish. They are a defining reality. Their alienation from the Irish Republic and their conflicts with their Catholic neighbors are the sole practical reasons for the political partition of the island.

That in turn is one of the only two reasons for the residual, and to many Irish abrasive, British presence there. The other is economic: British taxpayers outside Ireland are paying at least half the costs of all government expenditures in Northern Ireland, $3 billion or more annually. The tax bases of Northern Ireland and the republic combined cannot possibly absorb that burden.

If there is to be any effective long-range progress, it will come through gradual economic, social and political integration of Protestants and Catholics in the North—and then of the republic and the province.

If that ultimately leads democratically to the unification of Ireland as a single nation, no one would be more pleased than the preponderance of British and U.S. politicians, as well as those of the republic. But that can happen only by building interdependence and trust.

It is unrealistic to think of full integration in terms of years. It will take decades at best. In many areas and many ways, Catholics and Protestants in Northern Ireland are as segregated from each other as whites and blacks were in America's South in the 1950s. Forced integration could touch off a civil war in which tens of thousands would die—and put off reconciliation for generations.

What then is the proper U.S. role?

Two vital elements must underlie all responsible answers.

Do everything possible, including vigorous investigation and prosecution, to deter terrorism. That is especially important as to the very significant fund-raising and weapons-procurement efforts of the IRA's U.S. supporters.

Resist all efforts to damage further the economies of Ireland—rejecting calls for boycotts and other petulant gestures that can only worsen recession, unemployment, misery and strife.

Those are essentially negative positions. What of the positive?

U.S. politicians long have been involved in the affairs of Ireland, though much of the oratory of the past has been little more than dabbling—platform positions, St. Patrick's Day speeches and resolutions. There is a growing tendency, however, to make more substantive contributions.

The U.S. government has no right to intrude in the domestic policies of other nations. Would Americans take well to a French president or legislature issuing proclamations or appropriating funds to pressure the United States on the question of Puerto Rico's status, or the Italian government intervening on matters of American criminal justice procedures?

U.S. policy toward Ireland has been consistently committed to restraint. As President Jimmy Carter said on Aug. 30, 1977: "U.S. government policy on the Northern Ireland issue has long been one of impartiality, and that is how it will remain. We support the establishment of a form of government in Northern Ireland which will command widespread acceptance throughout both parts of the community. . . . The only permanent solution will come from the people who live there. There are no solutions that outsiders can impose."

He made another pledge, of great importance: "A peaceful settlement would contribute immeasurably to stability in Northern Ireland and so enhance the prospects for increased investment. In the event of such a settlement, the U.S. government would be prepared to join with others to see how additional job-creating investment could be encouraged, to the benefit of all the people of Northern Ireland."

Painstakingly negotiated among Mr. Carter's staff and members of a bipartisan congressional group called Friends of Ireland, that language is replete with reservations. The most significant is the precondition of a "peaceful settlement"—which suggests America has no role in helping until help is no longer needed. Nonetheless, the Carter statement did constitute an unprecedented suggestion of American economic aid.

President Reagan—in his words "an American proud of his Irish ancestry"—has not formally reaffirmed the Carter position on financial aid. He has strongly and responsibly re-emphasized the U.S. condemnation of groups who aid the terrorists. This autumn, he began to show keen interest in developing a new position. He assigned Deputy Secretary of State William Patrick Clark, a close friend, the number two man at the State Department and proudly a fifth-generation Irish-American, to survey the situation.

Mr. Clark went to Ireland in November and consulted senior officials there and in London, including Irish Prime Minister Garret FitzGerald and British Prime Minsiter Margaret Thatcher. It was taken as a significant shift of emphasis, in the language-sensitive world of diplomacy, that neither Mr. Reagan's statements nor the letter he sent as Mr. Clark's credentials mentioned the traditional U.S. position of nonintervention.

In an interview on Irish national television, Mr. Clark said the administration would maintain Mr. Carter's commitment and "perhaps go beyond in encouraging the private sector to assist in the north in creating more job opportunities." He noted that 35 U.S. firms there, with an investment of more than $1 billion, employ one-sixth of the entire labor force.

There has been no suggestion of direct U.S. government aid. There is, however, a strong sense of potential. Clearly, Mr. Clark and Mr. Reagan are paying attention. Clearly, Mr. FitzGerald's courageous and imaginative initiatives for reconciliation with the Protestants of the North and constructive recent contacts between the Irish and British governments have improved the atmosphers.

Americans' affection and concern for Ireland are substantial enough to support significant commitments of money. Encouraging private investment and kind words on St. Patrick's Day are not enough, because the time is ripe to do more.

The Reagan administration and concerned members of the House and Senate should move swiftly toward drafting a program that would commit substantial U.S. funds to development aid—the range of $200 million annually is a reasonable starting point. The details will be complex. It will require Irish and British government cooperation.

The aid may take form of direct subsidies, tax incentives or grants to independent development entities, and may usefully include some measure to provide Protestants with long-term indemnification against the sort of expropriation they fear in any movement toward union or federalization.

All U.S.-sponsored measures should have two inviolable standards:

Recipients should be enterprises that promise long-range economic growth—tourism, stable industry and the like—and be enforceably free of sectarian discrimination.

Aid should be distributed in ways that draw on and benefit both Catholic and Protestant communities and both political entities.

The U.S. government should strongly urge its allies to support similar measures through the European Economic Community, of which Ireland and Britain are members.

Will the next significant step in Northern Ireland be toward the reestablishment of a power-sharing executive and a multilateral council with real authority? Will there be movement toward gradual federalization of two parts of Ireland, with elimination of economic barriers, joint-citizenship arrangements or cross-border voting rights? Those and other intricate, delicate possibilities must be negotiated by the British and Irish governments.

The American government and people, however, have an important positive role to play. That is to confront the agonies of Ireland realistically and to insist, to themselves and to the world, that the present circumstances and the threat of their becoming worse are not acceptable. The time has come to declare that the United States can and will serve its own and Ireland's greater destinies by positive initiatives to change that course.●

## REDUCING SPENDING IS THE ANSWER FOR BALANCING THE BUDGET

### HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. RUDD. Mr. Speaker, in the last few weeks we have heard a lot of talk of alternative budgets, all of which make great and illustrious claims to solve our serious budget deficit problems.

The hard cold fact underlining all of these budgets—whether by Republican or Democract, or the House or Senate—including our President's proposal, is that Congress must make substantial cuts in Federal spending growth, which peaked at a high of 17 percent in 1980 while at the same time our gross national product only increased by 9 percent.

To achieve this lofty goal of a balanced budget, Congress must pursue President Reagan's wise policy of attacking these dangerous and irresponsible spending patterns which threaten to permanently cripple our Federal Government with high deficits and an ever-increasing National debt. Due in large part to our President's persistence, Congress last year lowered spending growth down to a 10.4 percent mark for fiscal year 1982. Even with these growth reductions, our budget swelled from $657.2 billion to $725.3 billion.

How can anyone call an increase of about $70 billion in 1 year a "sharp cutback," an "axed" budget, or "deep and devastating?" What should be pointed out is that without these actions by Congress and the administration, our Federal budget would have soared to even more incomprehensible limits only to be financed by another huge tax increase.

"Growth" is the keyword here. It has not been emphasized enough in this debate. Entitlement programs, excluding social security, grew from $33 billion to $168 billion between 1970 and 1981, representing a 15.6 percent annual rate of growth. All entitlement programs now add up to $430 billion, over half of our present budget. Surely, we have to place reasonable limits on these programs in a manner which prevents our Federal Government from outspending the rate of growth in our Nation's gross national product. To be sure, we have to do this without simply taking the old approach—this is, raising everyone's taxes.

The first step has already been taken by a courageous President who put his foot down and sharply decelerated spending. But our past indulgences are still in control. Entitlements and other spending programs are geared to enlarge at a pace which cannot be matched by our current level of taxation. To inject sanity in this budget process, we need to reform these automatic entitlements, approve many of the spending reductions offered by President Reagan, and make still further cutbacks where possible in all areas of the Federal budget.

But the most effective tool I have seen yet is the adoption of a balanced budget amendment. Congress would be required to adopt a balanced statement of fiscal outlays by a simple majority under such an amendment. In order to have a deficit, the statement would have to be passed by a three-fifths majority vote to be recorded. This measure, if adopted, would require the President and Congress to assure that actual outlays do not exceed statement outlays, and it would require Members who vote for deficit spending to account for it to the voter. If passed, such an amendment would take effect in late 1984 or 1985.

Accountability. That is what voters are asking for. It is interesting to me that those who are now for the first time professing the sins of deficits often are the same Members who have continuously pushed for more spending, more taxes, in every Congress. The only way to control this unaccountable hypocrisy is for all Members to put their vote on the record for clear and precise spending limitations. The best amendment I have seen is House Joint Resolution 350, which is cosponsored by over 150 House Members, including myself. An identical version of House Joint Resolution 350 in the Senate has been signed by 51 Senators and has been reported by the Senate Judiciary Committee.

Clarence Cannon, a Democrat who served in the House of Representatives for 40 years, made a statement back in 1959 that is just as relevant today. He said of this institution:

> We cannot escape the responsibility for the situation as we find it today. Congress spent the money and increased the National debt and brought on the inflation. The responsibility is right here on this floor. We cannot offer an alibi. We cannot pass the buck. And the reason we can no longer sell bonds at 2 percent is because we have steadily and stubbornly and continuously refused to retrench expenditure and begin systematically and methodically to reduce the National debt and stop inflation. Congress did it and let no one try to make the people back home believe any different.

As we proceed with the budget process during the next few months, we should be mindful of these words. Those who have suddenly taken an interest in budget deficits—something which somehow escaped their imagination before our national debt hit a trillion dollars last year—should be able to muster the courage to vote for the essential cuts in spending growth. The responsibility is now in our hands.●

## SAINT CHARLES SEMINARY, 150 YEARS OF SERVICE

### HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DOUGHERTY. Mr. Speaker, Saint Charles Borromeo Seminary in the Overbrook section of Philadelphia, Pa., is this year observing its 150th anniversary of service to the Catholic Church and people of the Archdiocese of Philadelphia.

Saint Charles is one of the oldest, largest, and most distinguished institutions for the formation of priests in the Nation, if not the world, and its record of outstanding service was both recognized and highlighted by the visit of Pope John Paul II in October 1979.

What Pope John Paul saw in his visit to Saint Charles Seminary was not only a group of students characterized by the joyous and generous enthusiasm of youth, but also and especially young men marked by solid learning, and manly piety, and faith.

The age of an institution often suggests quality, because institutions generally do not endure unless they meet needs which are both timely and timeless. In the case of Saint Charles Seminary, a century and a half of service has been marked both by fidelity to timeless truth and by taking advantage of timely opportunities such as initiating apostolic field education programs for seminarians, religious studies programs for Sisters and for lay men and women, continuing education programs for priests, and training in public reading and in sacred music.

Saint Charles Borromeo Seminary has served the Church of Philadelphia and the entire community well. Its 150th anniversary gives Catholics and those of all faiths the opportunity to learn more about this living center of faith and commitment to rich values in these days when so many thirst for meaning and hope.●

## "FACT FINDERS" IN CENTRAL AMERICA

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. WHITEHURST. Mr. Speaker, the March 1, 1982, issue of Newsweek contained a column by George Will which struck me as a particularly balanced and rational commentary on the present situation in Central America, and I strongly commend it to my colleagues.

He has correctly pointed out that many of the facts that are being found are, at best, subjective, and his article deserves a careful reading.

Thank you, Mr. Speaker.

The article follows:

[From Newsweek, Mar. 1, 1982]

AGAIN, THE FACT FINDERS

(George F. Will)

Ramsey Clark, that groupie of anti-American dictators, recently visited Nicaragua, issuing exclamations of approval, punctuated by a swoon of admiration for Nicaragua's Marxist dictatorship. Shucks, says this Manhattan lawyer in his country-boy manner, it's about the neatest revolution he's laid eyes on. That is high praise from a connoisseur who has laid eyes on a few since leaving office as Lyndon Johnson's last Attorney General. Immediately after leaving LBJ's Cabinet, Clark decided that U.S. policy in Vietnam lacerated his conscience. He made a pilgrimage to Hanoi, supporting Hanoi's program of conquest. More recently Clark had a crush on Khomeini.

Clark and some friends went to Nicaragua on one of those "fact-finding" trips that invariably find three "facts." The first is usually that the left, which is shooting its way to power or is busy screwing down the lid of its dictatorship, is really, deep down, democratic. The second finding usually is that, although the leftists are talking and acting like communists (harassing all "counterrevolutionary" parties and newspapers) and are being armed to the teeth by communists. (Nicaragua suddenly has the largest army in Central American history, an army unrelated to any defensive needs), they are behaving this way only because the United States "is driving them into the arms of the communists." The third finding is usually that the United States is doing this because, being paranoid, it confuses simple peasant agrarian reformers with communists.

HIGH COMMITMENT

"You will not find," Clark says, "a revolutionary movement in our epoch in which there has been such a high commitment to human rights." Clark and Co. took a page from the fact finders who used to find that Russian kulaks rather enjoyed "resettlement" at Stalin's hands. Clark and his friends are stoical about the sufferings of the Indians who have been "resettled" at gunpoint. Heck, the Sandinistas say, they used only 2,000 troops, and, besides, the Indians had been exposed to clergymen "preaching a primitive brand of anti-communism." (Do the Sandinistas prefer more elevated brands?)

One of Clark's companions says the regime "is doing everything it can" for the Indians. Oh? A fact the fact finders missed is that the Sandinistas are conducting a Cambodia-style campaign of systematic violence to extirpate a culture, preventing children from learning their parents' religion and language, creating thousands of refugees, herding people into concentration camps, burning villages, burying some Indians alive, making bonfires—there are photographs—of Indian bodies.

Nicaragua and its Cuban patron (and Cuba's life-support system, the Soviet Union) are supporting the conquest of El Salvador by a violent minority. Critics of U.S. aid to El Salvador foresee "another Vietnam." Some critics recently became exercised about five U.S. military advisers carrying rifles in a region of El Salvador where, according to the kind of lunatic guidelines generated by fear of "another Vietnam," rifles are not supposed to be carried.

Many of those who are most eager to portray El Salvador as "another Vietnam" willfully misdescribed the conflict there, and then in 1975 conveniently caused Vietnam to disappear from their political radar screens. You remember: the war was called an "indigenous peasant revolt." That description got run over by an army indigenous to North Vietnam, armed with tanks and rockets indigenous to the Soviet Union. The most striking common denominator between Vietnam and Central America is the one thing denied by many people who warn that El Salvador is "another Vietnam." The common denominator is Soviet complicity. The participation of Nicaraguans, Cubans and Soviet arms does not inhibit those Americans who are determined to portray El Salvador's struggle as a purely "internal affair." What will they say when El Salvador has become a staging base for the Soviet-Cuban assault on Guatemala, preparatory to the assault on Mexico?

Supporters of U.S. policy in Indochina endorsed, and critics ridiculed, two theories. The "domino theory" held that Hanoi's conquest of South Vietnam would envelop Cambodia and Laos and bring communist troops to the Thai border. The other theory was that blood baths would follow communist victories. The boat people put to sea, Cambodia became a charnel house and those who had ridiculed the "domino" and "blood bath" theories changed the subject. Today their subject is El Salvador as "another Vietnam." But as The Washington Post says:

". . . Somehow, sometime the people who fought and argued so passionately against the American effort and who so confidently misread the nature of the other side really need to accommodate the fact of the misjudgment into their thinking. Vietnamese history did not cease with our disengagement, and it also did not exactly improve."

FORCE OF NATURE

The sentimentalizing of "the other side"—in Indochina, in Central America—shows the lengths to which some people will go to avoid facing the fact that in many conflicts there is no nice side. It is said that the rebels in El Salvador, like Nicaragua's Sandinistas, are "gravitating" toward the Soviet camp. That suggests an impersonal force of nature, like gravity. Such language disguises the fact that our enemies are doing what they choose to do.

Already there are calls for the United States to press for a "coalition government" in El Salvador. In America, with its broad, mild consensus, when a Democrat or Republican President includes a member of the other party in his Cabinet it is considered bold. In El Salvador, where the two sides have been butchering each other, they are supposed suddenly to collaborate with the civility that democracy presupposes. It is amazing what people will believe to avoid facing the fact that in some conflicts one side or the other is going to win.

Clark, an archetype, is less a terrible simplifier than he is a terrible simplification, a distillation of all the follies of all the pilgrims who have worshipped at whatever shrines were considered "progressive" at the moment. Dabbling in Third World calamities is just a hobby for Clark. He lives and works comfortably far from the horrible effects of the causes he supports. But they are getting closer.●

## HOLE IN THEIR SOUL

### HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. WOLPE. Mr. Speaker—

God and the military veteran we adore . . .
In times of danger, not before;
The danger pass'd, and all things righted
God is forgotten and the veterans slighted.

Mr. Speaker, these—the anger-filled words of an anonymous World War I soldier—are sadly descriptive even today. They are words of frustration. They are words of pain. They are words which relate the feelings of so many veterans who risked their lives for their country and were disabled in the line of duty only to discover, later, that their sacrifices were forgotten and slighted by a country that all too frequently neglects to pay homage to its past. Mr. Speaker, they are words that beg a response.

It has been said that all disabled veterans have a "hole in their soul" that can be filled by a simple expression of gratitude. Today I am introducing a bill to do just that.

Department of Defense regulations now authorize space available military transportation privileges—free access to unused space on military air carriers—for all civilian employees of the Department of Defense, the American Red Cross, retired military personnel and the dependents of these three groups. Surprisingly, the present list of eligible users omits a group of Americans who have made the ultimate sacrifice for their country: The totally disabled veteran. Frankly, I was astounded to discover that veterans who are totally disabled as a result of military service cannot take advantage of this service. My bill corrects this anomaly by entitling them to this same privilege.

It is important to emphasize that my bill will not, in any way, alter the present operational system. That is, space available military transportation would continue on a stand-by, first-come-first-served basis with no designated change in flight schedules.

I feel that extending air travel privileges to totally disabled veterans is one way we have of recognizing the enormous sacrifice these people have made for our country. And happily, in a period of fiscal restraint, it is a gesture which can be easily made at little or no public expense.

I am hopeful that the Congress will deal expeditiously with this initiative, expressing long-overdue gratitude to a very special group of American heroes.●

## YELLOW THUNDER CAMP

### HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mrs. CHISHOLM. Mr. Speaker, on April 4, 1981, in the Black Hills National Forest, a traditional religious and cultural community called Yellow Thunder Camp was established. Two days after this initial organization took place, a claim for 800 acres was filed with the Pennington County, S. Dak., Registrar's office. This claim was filed based on the Fort Laramie Treaty of 1868, the 1897 Federal statute, with regards to the establishment of sites for churches and schools, and the 1978 American Indian Freedom of Religion Act.

In July, of 1981, Yellow Thunder Camp applied for a special use application which would have given the members of the Lakota-Dakota Sioux Nation the right to erect permanent facilities and remain on the requested 800 acres. This would have been for the purpose of carrying out their cultural and religious activities.

The special use application was denied on August 24, 1981 due to what now appears to be an improperly conducted environmental assessment. The Forest Service then halted the administrative appellate process, by bringing a civil suit against the camp. The Forest Service brought this suit although, prior to this period, they had stated their agreement that the camp was lawful.

As these issues were raised, a number of other concerns, involving the religious freedom of Indian people, also developed. For example the Forest Service has repeatedly failed to adequately consult with the traditional, and religious, leaders of the Lakota-Dakota Sioux Nation. Many of these consultations involved the Forest Service's forest management plan which could disrupt religious and archeological sites. There is at present, no real protection for ancestral and archeological areas in the Black Hills National Forest. Federal agencies, as a whole, have continuously failed to properly consult with the traditional, and religious, leaders of the Lakota-Dakota Sioux Nation about religious activities in the Black Hills National Forest.

With the aforementioned in mind, and to insure that Yellow Thunder Camp is allowed to fulfill it's stated goals of practicing Indian religious freedom, and gaining access to religious sites, I am introducing legislation today to support this objective. Joining me are my colleagues Representatives JAMES WEAVER and TOBY MOFFETT.

This bill will withdraw 800 acres of land, on which Yellow Thunder Camp now exists, for use as a religious and cultural community. These 800 acres will not be used for timber harvesting, or grazing, and persons using them will be prohibited from removal or excavation of archeological resources without the consultation with the Lakota-Dakota Sioux Nation. In addition, the Secretary of Agriculture will be directed by this legislation to insure that any proposed forest management plan for the Black Hills National Forest will have adequate protection for the archeological and historical sites found there.

Finally this legislation will reinforce the importance of American Indian religious freedom and the need for full cooperation from Federal agencies in protecting the religious freedom of Indian people.●

## A MEMORIAL TRIBUTE TO SKIP JASON

### HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LUNDINE. Mr. Speaker, I was shocked and saddened to receive word last Thursday that Robert (Skip) Jason, an advocate with the Housing Assistance Council, had died suddenly that morning of a heart attack.

Many Members of this body knew Skip Jason for his committed and untiring efforts on behalf of rural housing programs and the people these programs served. He was a dedicated and effective advocate for millions of elderly and poor rural residents who often found no other voice in Washington. To Skip Jason, more than any other single individual in recent years, must go the credit for preserving and improving rural housing programs that have so improved the lives of thousands of rural families.

Skip's commitment to improving rural housing conditions was only one aspect of a lifelong struggle against poverty, ignorance, and injustice. After graduating from the University of Texas, Skip enrolled in the Peace Corps, serving for 3 years in what was subsequently to be known as Bangladesh. Upon returning from abroad, Skip joined the ranks of the war on poverty, working in economic opportunity programs in Ohio, Indiana, West Virginia, Vermont, and Georgia. From his childhood in West Virginia, Skip understood both the beauty and the hardship of rural life. He dedicated his life to easing the pain of rural life wherever he encountered it.

I knew Skip only in recent years in his capacity as a housing advocate for the Housing Assistance Council, Inc. As a member of the Housing Subcommittee of the Banking Committee, I benefited greatly from Skip's broad knowledge of rural conditions and particularly of rural housing programs. He was an ever-ready source of needed statistics, of ideas and legislative proposals. I readily acknowledge that many of the rural housing programs and initiatives that have been credited to me and other elected officials rightfully belong to Skip Jason, and to his long-time colleague, Bill Powers. Skip's death removes a trusted colleague and makes the task of preserving rural housing efforts all the more difficult for those of us who remain.

Skip Jason's sudden death is tragic not only in light of the unfinished cause for which he lived, but for the family he leaves and to whom he was so devoted. I can only express my deepest sympathy to Skip's wife, Barbara, and to his son Jyoti, age 8, and his daughter Shona, age 2.

I am informed by Skip's associates that a special memorial housing fund has been established in his honor to further the effort to which he was so committed. Contributions to the Skip Jason memorial housing fund can be made at 2442 North Utah Street, Arlington, Va. 22207.●

## MODERATION NOT A VICE

### HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. BRINKLEY. Mr. Speaker, when I announced that I would withdraw from Congress after this year, I referred to a Millard Grimes column published when he was leaving the Columbus Enquirer years ago. Quoting Frost, he spoke of a fork in the road offering a choice of two paths and his decision to take the path less traveled. He is a man who considers things thoughtfully and in focus.

Obviously, as a fan of Millard's, I continue to read his columns, and last Sunday's, in the Columbus Sunday Ledger-Enquirer, was one of his best.

I wish to share with my colleagues his reasoned judgments for moderation in a world of too many extremes.

MODERATION NOT A VICE

Winter deals gently with Georgia and Alabama, with just enough harsh days to make us appreciate the promise of spring and the advantages of living in the south.

Snowstorms are spaced far enough apart that we neither dread them nor prepare for them but simply surrender to them for the necessary number of hours.

Spring soon dims the memory of icy windshields and painful wind chills, but when April comes we realize it is more pleasurable than January.

April and its autumn counterpart, October, are almost everyone's favorite months, April being decorated in the burst of nature's life, and relieving us of winter's cold, and October bringing the colorful panorama

of nature's annual death rites, and a breeze to chase the summer heat.

In climate, save for a few perverse people, moderation has overwhelming appeal, but oddly, moderation has a tenuous appeal in other areas of life that affect every human being.

It is the "hot summer" and "cold winter" dogmas and their exponents that usually dominate the debates, and have controlled most of history.

The 20th century is little different from earlier ones even though people today are much more informed and have access to a far broader range of information than their ancestors who knew little of what occurred beyond the limits of their villages.

In many respects, the people of 1982—even in the United States—remain cloistered in the villages of their doubts and fears, barricaded behind strong opinions and weak information.

The two major countries in which moderation has been most persuasive are the United States and Great Britain and not surprisingly they have been the source of much of the progress and idealism in the world today.

Both the United States and Great Britain have basically the same form of government they had 200 years ago. No other large and influential nation of today has a comparable record of stability, and the vast majority of nations have government forms which are less than 35 years old.

Many reasons can be cited for the relative success and stability of the U.S. and Great Britain but the most important reason is that neither of them in those 200 years has completely succumbed to the control of zealots, in either their political, religious or social realms.

The danger has always been present, of course, and the United States passed through a cruel and devastating civil war which sorely tested its moderate traditions.

On racial problems, the zealots of one side or another almost always prevail, and the fact that the U.S. has managed to override its internal racial and ethnic conflicts is the greatest tribute to its innate moderation, and to the good luck and skill of the people who emerge from time to time as dominant leaders.

Great Britain is unsettled by a religious division in its Northern Ireland province, and also faces serious economic disruptions in all its islands today, which will seriously challenge the instinct for moderation.

These two nations have most faithfully trod that narrow path of democracy between the desert of tyranny on one side and the wilderness of anarchy on the other, fully aware that when any people have faced a choice between tyranny and anarchy they have without exception preferred the tyrant's certainty over anarchy's turmoil.

Nearly all U.S. presidents have been moderates, beginning with George Washington whose example has served the nation well.

Now, we must face the question of whether Ronald Reagan is to be a president who seizes a particular view or philosophy and will not be moved by pragmatism or contrary evidence which varies from his expectations.

This is not an idle or frivolous question for Americans, and especially for congressmen of both parties who have the responsibility of sharing power with the president.

The evidence abounds that the U.S. economy is in its most serious crisis since 1932. The most likely savior is not the supplier (as in supply-side economics) but the tried and true consumer, who has rescued the free enterprise system from all its other crises when given half a chance.

Reagan's tax cuts not only assured a record-breaking deficit but were weighted in favor of the suppliers rather than the consumers. Part of that was not in his original plan but he accepted every change that benefited suppliers and the suppliers have responded thus far by suppling less because they realize—even if Reagan doesn't—that there is little demand for them to supply.

To paraphrase Barry Goldwater's famed faux pas of the 1964 campaign, moderation in pursuit of a viable and fair economy is no vice; extremism in defense of a questionable, even discredited, economic theory is no virtue.

President Reagan, in the coming weeks, will have the opportunity to demonstrate if he is a truly great leader in the American traditions—which are moderation and compromise.●

## ROBERT A. MACRAY IS OVERSEAS WINNER IN VOICE OF DEMOCRACY CONTEST

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. HAMILTON. Mr. Speaker, I would like to bring my colleagues' attention to a speech made by Robert A. Macray, a 17-year-old American who is a senior in Heidelberg American High School in West Germany. Written for the Voice of Democracy contest sponsored by the Veterans of Foreign Wars of the United States, this speech was recently selected as the best from over 250,000 entries. The contest theme this year was "Building America Together."

I am sure my colleagues will agree that this speech is a moving evocation of the community spirit on which our Nation rests. Robert Macray's words are also a reminder of the many thoughtful young Americans who are the hope of our future.

As I walk down one of the narrow streets of my town, I come to an old house with a plaque in front of it. I stop and slowly read the plaque; it states that this is the oldest house in town, having been built more than 150 years ago. Looking at the house I begin to wonder about the time when it was built, about the people who built it, about the rest of America at that time. I try to recall what I have studied in school. I see in my mind the New Englanders gathering in the village square to listen to one of the town elders. They are all from Europe; some are German, some are Dutch, some are English, yet they are now fellow citizens in a young America. The speaker is explaining that the village needs a school house. The villagers realize that this project will be a community task. Within a week the school house, perhaps the building I am looking at, nears completion. The citizens worked together, put aside their differences, and accomplished a task for their mutual benefit. Together they continue to build their town and set the foundations of America.

All across the East coast I see early Americans struggling to build a nation. In the West I see the same; pioneers who have set out in covered wagons from the mighty Mississippi. Travelling across the midwestern plains to the Rockies and further still to the Pacific Ocean. Whether in groups large or small, they are working together throughout their difficult journey, and when they arrive, they settle down to their task of building a village, a town, a community, a nation.

Continuing my walk down the street, I look for other historic places. Still thinking about those colonists and pioneers working together, I ask myself, "Are we still building America together today?" I think for a while. There are engineers designing America's cities, buildings, and highways. There are lawyers and the businessmen. There are the computer scientists, the nuclear physicists, the biologists and medical doctors all working on new ways to produce energy, to rid our people of disease, to build a stronger America. There are the men at NASA, the creators of the space shuttle working together on advancements, achievements, and a technology to help all Americans. There are the city mayors, the state governors, our representatives and senators, our judges, and our President. They have a goal in mind, to create a strong, just, peace-and-freedom loving nation and they do not turn from that goal. But is it only the scientists and the statesmen who are building America? I wonder. No, of course not, it is every one of us. It is I, my friends, my teachers, my parents, my fellow citizens, my fellow Americans. We are also building America together. For we are the masses that give America its vitality; we are concerned, we are dedicated, we are hard working. We are helping to build America, together with our nation's inventors, engineers, and statesman. We are a people who will put aside our differences and our personal goals, but who will never put aside the building of our nation. Yes, we are definitely building America together. In fact, we Americans, have been building America together for more than 200 years.

I have now come to the public library. Stepping inside I notice a decorative poster on the wall with a quotation from Poet Walt Whitman. "The United States themselves are essentially the greatest poem." As I contemplate, I recall another poem by Whitman—

"I hear America singing, the varied carols I hear,
Those of mechanics, each one singing his as it should be blithe and strong
The carpenter . . . , the hatter . . . , the wood cutter . . . , the ploughboy . . . ,
The mother . . . , the young wife . . . , the girl . . . ,
Each singing what belongs to him or her . . .
Singing with open mouths their strong melodious songs."

Yes, Americans are singing. They are singing of a goal, a goal from which they have never turned, one they have constantly striven for in unison, never tiring, never stopping, never accepting defeat. It is a goal of men and women proud of their heritage and challenged by the future. It is the challenge and pride of building America together.●

## BIRTHDAY GREETINGS TO DAVID LEVINE

### HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to have the opportunity to wish David Levine a very happy 18th birthday. During his junior year in high school from the fall of 1980 through the spring of 1981, David served the Congress as a page from my city of Chicago.

There is little question that the pages are crucial to the successful operation of this Chamber. In my almost 24 years of service to this body, I must say David has been one of our most outstanding pages.

We are sorry to hear of David's illness, but I know he will be back to see his many friends throughout this institution.

Mr. Speaker, David Levine is a young man of maturity and dignity—we need him back. David, get well soon.●

## COMMUNISM COMING IN THE WESTERN HEMISPHERE

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LAGOMARSINO. Mr. Speaker, a Hearst newspaper editor's report recently commented on the infiltration of communism in the Western Hemisphere. I would like to bring it to the attention of my colleagues.

The report provides an interesting point of view. Mr. Hearst refers to the Soviet tactics in this hemisphere as "salami slicing," whereby they stage coups or backyard maneuvers to take over democratically elected governments.

The article provides a legitimate explanation for the U.S. involvement in Central America, specifically El Salvador. It is important that the United States continue its support of the El Salvadoran Government.

The text of the article is as follows:

COMMUNISM COMING IN THE WESTERN HEMISPHERE

(By William Randolph Hearst, Jr.)

NEW YORK.—The battle for Central America has begun and the Reagan administration is in a tough tussle with the Congress to increase aid to the embattled government in El Salvador fighting off well-supplied communist-led guerrillas. Unfortunately, most people here at home don't appreciate the great stakes involved in the region of seven small republics at our backdoor, most bordering the Caribbean.

But these countries, which have been independent for 150 years or more, are of incalculable strategic value. One, Nicaragua, was detached from the mainstream by the Cuban-fomented revolution a couple of years ago. El Salvador is the most populous with nearly five million people. If it falls, all Central America is up for grabs. Even Mexico, with its enormous oil reserves, is under the aggressive revolutionary gun.

This is known in Soviet practice as "salami slicing." The idea was first revealed to a stunned Western world when a tiny Communist Party together with the armed might of the Red Army staged a coup against a democratically-elected government in Hungary in 1947. Nearly all the important elected deputies were arrested first and shipped off to the U.S.S.R. Few were ever heard of again. Into their absent places communists and their stooges were moved. Presto! A so-called "people's government" was installed.

Chief salami slicer was austere Mikhail Suslov who, for 50 years, intrigued and plotted assassinations to preserve and expand power where the Russians had even a toehold. Suslov died in Moscow the other day but his macabre handiwork survives today around the world, including defiant Poland and in El Salvador.

As the chief theoretician of the Soviet party and master-mind of destabilizing governments abroad, Suslov gave unstinted encouragement to Fidel Castro and his brother, Raul, trained by the KGB. Suslov apparently was the only top member of the Politburo who urged the late Nikita Khrushchev to defy the U.S. during the missile crisis of 1962. Suslov lost—but didn't forget. He later swung the opposition against Khrushchev and in favor of present bigwig Leonid Brezhnev.

A grateful Brezhnev gave Suslov open-ended license to cement Soviet policy, particularly where it harmed U.S. interests. That's how the Kremlin persuaded Castro to dispatch Cuban foreign legions abroad—to Africa and the Middle East. Then, he encouraged both Castros and their trusted emissaries to become involved in Central America. It was an original Suslov suggestion that they help the Sandinistas revolt in Nicaragua first. The Castro brothers first opted for El Salvador but Suslov stuck to his salami tactics. Today, Fidel Castro is the revolutionary disease carrier, a sort of "Typhoid Mary," in the region.

As Professor Jeffrey Hart, of Dartmouth, proposed in a recent column for King Features, while Poland is in the Soviet sphere of influence, Cuba is in ours and very remote from the centers of Kremlin military muscle. Therefore, Hart reasons, and I heartily agree, why don't we put a real squeeze on Cuba? It has just received 63 tons of fresh Soviet armaments backed by several squadrons of new MiG-23s. Some of those MiGs, by the way, had the audacity to penetrate our own U.S. airspace on reconnaissance missions to spy on some of our maneuvers. They were escorted by Navy planes back toward their Cuban bases. The Caribbean region, in fact the entire Western Hemisphere, is essentially part of our "Sphere of Influence" and we should make our position in that regard clear to the athiests in the Kremlin.

Yet all the indications are that conditions in El Salvador are fast deteriorating. Secretary of State Haig told the Senate Foreign Relations Committee, in a robust defense of President Reagan's urging of Congress for more assistance to El Salvador, that the U.S. intends to thwart the rebels. He hinted at "whatever means" may be necessary which promptly alarmed some critics to mean the use of our troops.

Secretary Haig asserted that he wasn't about to spell out options available to us and also refused to say whether we'd contemplate sending combat troops. The president, a few days earlier, certified that the civilian junta of President Jose Napoleon Duarte was making progress toward human rights.

For El Salvadoran government, it's a time of terrible stress. Its preparations for democratic elections in March are underway even as guerrilla forces launch new offensives and have managed to destroy at least half the government's air force in a derring-do raid. President Reagan figures El Salvador needs an increase of $100 million now and an overall total of $300 million by 1983 in economic and military assistance to beat back forces supplied by Cuba, Nicaragua and behind them, the Soviet Union.

It's distressing that rightist governmental forces and some so-called private armies have resorted to wanton killings as they searched for guerrillas, who have preyed brutally on the fears of peasants and many townfolk. Of course, a danger always lurks that our own government might become too deeply involved in El Salvador and lose out in the long run. Still, I believe it's a private sign that the El Salvadoran government arrested six soldiers for slaying three U.S nuns and a lay-worker. It tries, perhaps awkwardly, to avoid extremism while the guerrillas kill-at-will and blame the El Salvadoran government for extremism.

This kill and accuse the other guy ploy is part of the "salami slicing" method advocated and practiced so amorally by Suslov in furthering Soviet power positions. The application is a first cousin to the big lie invented by Hitler. It's very complicated to figure out in many of the ripped-up country's areas who is doing what to whom and why. I don't pretend to offer a solution. I'm only setting out some of the historical background and how this frightful mess came about to help you better understand when you read dispatches from the area.

What is clear to me, however, is that the encroachment by the Soviet Union through its surrogates must be excised in Central America as a surgeon would remove a cancerous growth.

Left alone, it will not wither or go away, but will, sooner than later, infect us all.●

## A NEW CLAIMS BILL

### HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LEE. Mr. Speaker, I offer for the RECORD today a copy of remarks made to my constituents in central New York which deal with a very important matter in the Eastern United States.

Following is the text of those remarks:

A NEW CLAIMS BILL

(By Congressman Gary Lee)

Maybe it's appropriate that so many old cliches seem to fit perfectly when we discuss the old problem of settling Indian land claims.

For instance: "two wrongs don't make a right;" or "you can't please all of the people all of the time."

Unfortunately, the only way to ideally solve Eastern America's (and our own Central New York's) Indian land claims is to find the remedy that pleases all of the people all of the time. After much research we've established this one fact: it can't be done.

With that in mind, I introduced with Senators D'Amato and Thurmond the "Ancient Indian Land Claims Settlement Act of 1982." It comes as close as is humanly possible to meeting the needs of people involved and still abide by the strict demands of the law.

To restate history, land that was clearly in the possession of Indians before the Mayflower docked became settlers' land in a variety of ways.

In some cases, settlers defeated Indians in wars between the two, but that didn't happen as often in our Eastern states as in the West where the wars generated folklore and, later, movies. During the American Revolutionary War, however, many tribes fought for the British against the colonials.

When General Washington won, Indian lands became the "spoils of war." The victors, in many cases, divided it among themselves and relegated Indian tribes to reservations.

In time, those tribes sold most of the land to the settlers' government, in our case, the State of New York. About the same time, though, the fledgling federal government was asserting itself as the overseer of state's dealings with Indian tribes. In a succession of increasingly stringent measures, the new Federal government insisted on being a part of treaties between states and Indians.

Ultimately, it demanded that any treaties be approved by Federal authorities giving the national government the chance to review each transaction for fairness.

States, meanwhile, resisted this imposition on their own powers. Many states simply refused or "forgot" to send the treaties to the Federal government for formal ratification. Some cases question the authority of federally assigned Indian agents who were present at treaty signings as reason to overturn treaties.

Today, the alleged lack of final review or the status of agents nearly 200 years ago—at best only minute legal flaws—are encouraging tribes to claim that the lands are still theirs.

The results are lawsuits that could, in their ultimate resolution if tribes are successful, capture some nine-million acres of land which non-Indians have held title to for those 200 years.

In other words, the Indians want literally tens of thousands of current property-holders thrown off the land, regardless of the innocence of those people. This is the "second wrong" that would make the "right."

My bill is, in its direction, very simple. It says that in these kinds of cases, we recognize that the current property-holder should not have to abandon his or her property, that titles should not be clouded by massive suits for land; that current ownership titles would remain inviolate.

It also says that the only place a responsibility so broad and with so much historical background can be adequately handled is with the Federal government. In the end, if tribes can prove to the Federal government that they have a valid claim, the Federal government would pay them for it.

Payment would not include land now in the hands of private owners, but tribes would be encouraged—and helped by the Secretary of Interior—to find and buy available land with their monetary settlement.

The Indians, unfortunately, don't like the idea. You will hear them in these next weeks refer to me and my bill in the same terms they would use for a rattlesnake in the baby's crib.

But after all is said and done, giving the current landowner the peace of mind he or she deserves, and returning to the Indians the land they sold long ago are two irreconcilable positions. I would become anyone's suggestion to better resolve it, but so far we have only heated discussion from which to draw possible answers—and this bill.

In this case, the current landowners are at a distinct disadvantage. First because they are the object of a national guilt complex that stems largely from the Western movie image of unsavory government dealings with Indians. So, the non-Indian is quickly assumed guilty.

Second, the powerful Washington lobby maintained by Indians today knows all too well how to exploit that guilt for the benefit of Indian causes.

If it's possible for both Indian and settler to put rhetoric aside and deal on a fair-is-fair basis, we have a chance. That is our goal at the outset. The answer, we hope, is this bill. But the story is: To be continued . . . ●

## THE WORD FROM NEW ENGLAND: ACID RAIN CAN'T BE BLAMED ONLY ON THE MIDWEST

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. RAHALL. Mr. Speaker, during our consideration of the acid rain issue, it is interesting to note that a number of New Englanders are beginning to question the validity of the argument made by some that most, if not all, of the acidity in rainfall affecting New England is being transported from the Midwest.

Recently a study was completed by Edward C. Krug of the Connecticut Agricultural Experimental Station entitled "Effects of Acid Rain on Soil and Water." This study raises some fundamental questions about the relationship of long-range transport to identified environmental damage popularly associated with acid rain.

Coupled with the findings made by Kenneth Rahn of the University of Rhode Island which indicated that acid deposition in the Northeast may be derived from emissions of local origin rather than from the Midwest (CONGRESSIONAL RECORD, Jan. 26, 1982, page 209), the Krug study offers an equally powerful argument against the "control now, ask questions later" philosophy being embraced by a number of my colleagues.

Because of the length of the Krug study, I am not inserting it into the RECORD, but rather, will make a copy available to any interested party. However, I would like to insert a summary paragraph, which states:

In summary, the Adirondacks, and other remote mountainous areas of the Northeast are not pristine environments upon which acid rain is acting. The region has undergone extremes in land use associated with the demographic transition from an agrarian/rural and dispersed society, which cut and burned a wide swath, to a more centralized/industrial society which is letting these now remote areas revert back to a more natural state. These regions asserted to be impacted by acid rain are precisely the regions undergoing greatest natural soil acidification.●

## ARIZONA'S WINNER IN THE VFW VOICE OF DEMOCRACY CONTEST

### HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. RUDD. Mr. Speaker, the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct an annual voice of democracy contest in which secondary school students participate and compete for five national scholarship awards.

I was pleased to hear that the winning contestant from Arizona was a constituent in my district, Miss Suzanne E. Konen, who attends Sunnyslope High School in Phoenix. She plans on pursuing a career in broadcasting or the fine arts field.

Suzanne Konen's State winning speech entry fits in eloquently with the contests' theme of "Building America Together." Her entry will be judged along with other State winners at the final national level later this month in Washington, D.C., so that my colleagues may be kept abreast of the still flourishing patriotism apparent in many of our aspiring leaders, I have included Miss Konen's entry in the CONGRESSIONAL RECORD. In her speech, she stresses the importance of defending our cherished American freedoms with a strong military defense, prudent conservation of our resources and the pride of our industry, and its workers, in producing the backbone of our economy.

Let's take a trip! Travel back with me through a space in time.

We have just seen the Columbia make its second voyage in space.

We can remember when an American took the first walk on the moon.

Go back further with me and recall when jet travel was first available and then back to the birth of aviation—science bringing people closer together.

Think back, too, to the defense of our freedom—two world wars fought and won in the interest of keeping this nation free.

As we travel further into yesteryear, history tells us of the vast valleys and plains settled by our forefathers and how they es-

tablished the United States of America and for the rights of the American people and for those freedoms that we are still enjoying today!

This was the origin from which it all sprang! This was the creation of America!

These seemingly endless miracles that have passed before us in the last 205 years are the huge building blocks upon which we must continue to build in order to bring this nation to its next century and beyond.

We have seen so much . . . but we must also ask "What remains for us to do? How can we contribute to the building of America?" Let us now sort out the building blocks of the future.

Certainly one of the vital elements of our country that made it strong and kept it strong is the maintenance of a capable military defense to protect the freedom that we cherish so much. Our youth needs to know that the military is an important and viable way of life which not only builds defense but builds individual character as well.

Another building block essential to the enjoyment of our land is the protection of our environment. We need healthy forests, rivers that continue to flow, clean air, and enough farm land in order that we may remain the bread basket of the world. These things are not beyond our control.

You and I can participate in the most basic ways, from controlling camp fires to proper maintenance of our vehicles. We should be prudent and conserve the resources that are limited to us. Let us be considerate of those generations to follow.

Drawn in the blueprints of our nation is the need to address the fellowship of Americans. There is no room for prejudice but there is always room for helping hands.

Our industry has allowed our country to take its monumental shape. We need, now, to see the importance of a job well done. You and I, whatever our calling, should take pride in producing quality goods and services. Our livelihoods depend upon it!

We are the workers whose very existence is etched on the cornerstone of this great nation. You and I can move forward to continue the development of our country.

We have the tools! We are the builders! We, the people, are the United States of America!!●

## PROFILE: GEORGE DANIELSON

### HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. MOORHEAD. Mr. Speaker, I would like to bring to the attention of my colleagues in the House a fine "Profile" on our friend GEORGE DANIELSON, printed in a recent edition of the Los Angeles Daily Journal, the newspaper for the southern California legal community.

As you know, Mr. DANIELSON has been appointed to the California Court of Appeals and will soon be leaving Congress, an entity he has served with skill and devotion for a dozen years.

Mr. Speaker, I am pleased to be able to submit this "Profile" on GEORGE DANIELSON to his many, many friends in the House.

[From the Los Angeles Daily Journal, Feb. 19, 1982]

PROFILE: GEORGE DANIELSON

Why would a member of the U.S. House of Representatives who has built up enough seniority to get things done want to leave Congress to become a judge—and a state court judge at that?

To Rep. George Danielson, who is leaving Congress after nearly a dozen years to go on the California Court of Appeal, the answer is easy. "I've wanted to be a judge for a long time and I presume that's the underlying reason. I'm sure it's the underlying reason because, frankly, I love being in Congress."

A couple of years ago, Danielson, a Democrat, was ready to leave the House for a possible appointment to the Ninth U.S. Circuit Court of Appeals. He said he was under consideration for appointment by President Jimmy Carter but did not win the support of the nominating commission that Carter set up for his choices to the federal appeals bench.

Now, Gov. Edmund Brown Jr. has given Danielson the chance to go on the bench by nominating him to the Second District Court of Appeal in Los Angeles. "The opportunity is here, so I feel that if I don't take it now, I never will. So I better take it," said Danielson, whose congressional district takes in Monterey Park, El Monte, Whittier, and a swath that includes a host of other southeast Los Angeles County communities.

In the years that Danielson has served in the House—he was first elected in 1970—Congress has seen some tumultuous times. From the nationally divisive debates over the Vietnam War to the jarring episode that began with the Watergate break-in and ended with Richard Nixon's threatened impeachment and resignation, Washington politicians have been buffeted both with national crises and an increasingly cynical and suspicious public.

It's hardly a surprise, then, that Danielson speaks somewhat longingly about the more serene surroundings of the judiciary. "After having been in elective offices for 20 years, I just don't think that in the judiciary you could even reach the outer fringes of the public pressure that you get in elective office," he said during an interview in his Capitol Hill office.

"LESSENING OF TEMPO"

Danielson realizes that judges have come in for their own increasing share of criticism and public rebukes at the election polls. "I don't quarrel with your premise (about heightened attacks on judges), but no matter how accurate they may be, there will certainly be a lessening of the tempo of the public criticism and pressure that you get in Congress. I just don't think there'll be any comparison," said Danielson.

For Danielson, his appointment to the Court of Appeal comes after a political career that started in 1962 with his election to the California Assembly. Four years later, he was elected to the state Senate. He won his House seat in 1970 and was re-elected five times. Had Gov. Brown not lured him away with the bench appointment, Danielson could presumably have stayed in the House as long as he wanted. The democratic-sponsored reapportionment plan transferred some portions of his district to a new district designed to favor election of a Hispanic representative, but Danielson's district remained safely Democratic.

A practicing lawyer for more than 20 years before his election to Congress, Danielson has been closely connected to legal and judicial issues while serving in the House. He is the author of a major regulatory reform bill that has already cleared the Judiciary Committee and is awaiting action in the House. In the past year he has also introduced legislation to revise the Federal Tort Claims Act and has considered a bill to streamline litigation arising out of air crash disasters.

The fact that he has worked with the judicial branch on various pieces of legislation, said Danielson, has left him with a closeness and familiarity with the third branch of government. "I don't feel like I'm leaving home and going to a strange territory," Danielson said of his impending move from Congress to the judiciary.

Danielson has "long had a tremendous respect for the judiciary and has always considered this (a judicial appointment) to be a cap in his career," said a House staff member who has worked closely with Danielson. "To him its's really an achievement."

PRAISE FROM GOP COLLEAGUE

Danielson's appointment was also lauded by Rep. Carlos Moorhead, R-Calif., a conservative who is the senior GOP member of the administrative law subcommittee of the House Judiciary Committee that is chaired by Danielson.

"George is a good lawyer and I think he will do a good job on the bench," said Moorhead. Though they have sometimes been on different sides of various issues, Moorhead said Danielson has been fair and ready to compromise as a subcommittee chairman with a Democratic edge on the panel.

Moorhead said he has been critical of Brown's previous judicial appointments because some of them do not appear to him to be very hard working. That is one concern he does not share in Danielson's case. "That's certainly one comment you'll never hear about George. He's always looking for something more to do," said Moorhead, who represents Glendale and other foothill areas in Congress.

Danielson declined to comment on observations about other judicial appointments made by Brown, other than saying, "The record speaks for itself." But he did add, "I think he made a good appointment with me."

One critic of some of Brown's choices, Attorney General George Deukmejian, will be among those sitting in judgment of Danielson as a member of the Commission on Judicial Appointments. The two men served together in the state Assembly and Senate. Deukmejian has stirred quite a bit of controversy over his habit of asking recent appellate nominees to respond to a questionnaire that asks their views on state Supreme court decisions in criminal matters.

Danielson said he has not yet received a questionnaire from Deukmejian and so does not want to commit himself yet on whether he will respond. However, he said he would "take a rather dim view of that sort of thing" because he doesn't think such a questionnaire falls within the proper role of the appointments commission.

The other two members who will make up the commission voting on Danielson will be Chief Justice Rose Bird and Justice Lester Roth, the senior presiding justice in the Los Angeles appellate district.

NOT "SOFT ON CRIME"

Danielson's pre-World War II service as an FBI agent and a three-year stint as an assistant U.S. attorney in California, meanwhile, led some law-and-order conservatives to believe that Danielson will take a reason-

ably forceful position on criminal law matters.

"I don't think anyone will have cause to be concerned about him being too soft on crime," said Moorhead. Although he said Danielson will respect individual rights, Moorhead said the prospective appellate judge will also "be concerned with punishing the guilty."

Danielson is a little more reticent about stating his views on the role of the courts in curbing crime. Instead, he said the entire system of administration of justice is partly to blame because of delays and an "abuse of the public's patience."

"The public expects there to be system in which people accused of crime are tried and the decision is rendered and disposed of one way or the other without going on forever and ever," he said. He included prosecutors and defense attorneys, as well as judges, in his observations about delays in the system.

Danielson expressed similar concerns about delays in civil cases, but here pointed a more accusing finger at litigation attorneys on both the defense and plaintiff sides.

"Why, requests for admissions, interrogatories, my God, they're almost beyond reason," he said. "I think we've built up such an elaborate set of procedures that that's what we're drowning in."

Whether it's partly in jest or partly serious, Danielson blamed the invention of word processing systems, now commonly used by lawyers, for the proliferation of the paper blizzard that frequently is the hallmark of civil lawsuits.

"If they (attorneys) had to sit down like they used to when I was practicing and do it manually, and then make eight or nine copies and erase everyone when you made a mistake, you wouldn't find those long, long requests and discovery procedures," he said.

Danielson, who turns 67 on Saturday, was born in Wausa, Nebraska. He received both his undergraduate and law degrees from the University of Nebraska. He became and FBI agent at the age of 24 and left five years later to serve in the Navy during World War II. He practiced law privately after spending three years as an assistant U.S. attorney following his military service.

FAULTS LAWMAKERS

Danielson's career switch from legislator to judge comes at a time when the judiciary is more frequently being accused of making their own laws and ignoring legislators.

When asked about the complaint of excessive judicial activism, Danielson said the fault often lies within legislators themselves. "Part of that, as I see it, is due to the fact that we in Congress—and I'm sure it's true in state legislatures—often put out statutes which are not exemplars of legal draftsmanship."

Enactment of laws that are ambiguous invariably lead to judges being called on to interpret what legislators had in mind. "We simply dump on the courts the need to construe a statute which, if worded properly in the first place, wouldn't need much construction. And that invites the criticism of judicial activism," said Danielson.

Danielson said the election of fewer lawyers to Congress has heightened the problem of vaguely-written laws. He said Congress needs more "mature lawyers" who have practiced before getting elected.

But for Danielson, it is time to trade in his lawyerly experience in Congress for the new experience of sitting on the bench. "I will miss advocacy. It's a very exciting, adrenalin-sponsoring thing," he said. "But I don't know how much adrenalin you need in your life. I've certainly had my share."●

## A TRIBUTE TO JOHN M. LADD

### HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. MITCHELL of New York. Mr. Speaker, I would like to take this time to bring the attention of my colleagues to the recognition that has been given to the accomplishments of a distinguished citizen of the 31st Congressional District of New York. John M. Ladd, the executive director of the Mohawk Valley Economic Development District, has been chosen as this year's recipient of the General Herkimer Council of the Boy Scouts of America's Distinguished Citizen Award.

Few individuals are more deserving of this honor. He has served for 15 years as director of the multicounty Mohawk Valley Economic Development District. In this capacity he has served as a vital catalyst for the economic revitalization of a severely depressed regional economy. His knowledge of government economic development programs, his ability to coordinate diverse groups of interests, and his boundless determination have saved an innumerable quantity of jobs in our area.

He has served the Mohawk Valley in many ways, but he has also served his Nation as an active professional in the field of economic development. He has chaired several influential professional associations and has gained the respect and admiration of national leaders in field.

John's commitment to the betterment of his community is undeniable. He has devoted himself to making the Mohawk Valley a good and prosperous place to live and work. Through his many efforts, he has made our community a place with a future for ourselves and the youth of the Mohawk Valley.

He is a most worthy recipient of Scouting's Distinguished Citizen Award for 1982.●

## RESOLUTION OF LITHUANIAN COUNCIL OF CHICAGO

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DERWINSKI. Mr. Speaker, I would like to insert the following resolution adopted by the Lithuanian Council of Chicago in commemoration of the 64th anniversary of the Declaration of Independence of Lithuania. The United States must continue to support the aspirations of freedom, independence, and national self-determination of the people of Lithuania, and continue our nonrecognition of the incorporation of Lithuania and the other Baltic States into the Soviet Union. The resolution follows:

RESOLUTION

We, the Lithuanian Americans of Chicago assembled this fourteenth day of February, 1982 at Maria High School to commemorate the restoration of Lithuania's independence, do hereby state as follows:

That February 16, 1982 marks the 64th anniversary of the restoration of independence to the more than 700 year old Lithuanian State;

That Lithuania was recognized as a free and independent nation by the entire free world, she was a member of the League of Nations, however, she was by force and fraud occupied and illegally annexed by the Soviet Union disregarding the Peace Treaty of 1920 in which Moscow had guaranteed Lithuania's independence forever and disregarding the Non-Aggression Pact of 1926 with the Soviet Union;

That the Soviet Union is an imperialistic, aggressive colonial empire, subjugating each year new countries; Lithuania was one of its first victims. The colonies of western countries have regained their independence, even underdeveloped nations of Africa and Asia, while Lithuania is still exposed to the most brutal Russian colonial oppression and exploitation;

That the Soviet invaders, even though using tortures in jails, concentration camps, psychiatric wards are unable to suppress the aspirations of the Lithuanian people for self-government and the exercise of their rights to self-determination, as is highly evident from the numerous underground press and strong dissident activities. Now, therefore, be it

*Resolved:* That we are grateful to the President of the United States who instructed the U.S. delegation to raise at the Madrid conference the right of the Baltic States for self-determination;

We are grateful to President Reagan and the Department of State for statements that an official diplomatic non-recognition of the forced incorporation into the U.S.S.R. of the three Baltic nations will continue to be a policy of his Administration also;

We urge the United States of America and other nations of the free world use diplomatic and other possible pressures that the Soviet Union withdraw its military forces, secret police apparatus, foreign administration, and release from jails, concentration camps and psychiatric wards people who struggle for human rights and liberty;

That we express our most sincere gratitude to the U.S. Congress for non-recognition of the incorporation of Lithuania into the Soviet Union, and for the impressive annual commemoration of Lithuanian independence. We request the Administration of the U.S.A. and the governments of other free countries to use every opportunity in international forums and in direct negotiations with the Soviet Union to strongly support the Lithuanian aims for independence.

That copies of this Resolution be forwarded to the President of the United States, to the Secretary of State, to the U.S. Congressmen and Senators from our State, to Congressman Dante B. Fascell, chairman of the Helsinki Committee in Washington, and to the news media.●

## THE REAGAN ECONOMIC PROGRAM—THERE MUST BE A BETTER WAY

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### HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LaFALCE. Mr. Speaker, today I wish to call to the attention of my colleagues an amazing speech.

J. Richard Munro, president of Time Inc., delivered these remarks in late 1981 to the Union League Club of New York in New York City. Rather than speak to his fellow business executives about the need for corporate planning or fiscal responsibility, Munro took a tact unusual for an individual in his position: he briefly outlined why business executives ought to be alarmed at the Reagan economic program.

But the unusual character of Mr. Munro's speech does not lie solely in its attack on Reaganomics. It is not one businessman's mutterings about why the economy is such a mess.

Instead, Mr. Munro's discourse focuses on the people who are being truly victimized by Reaganomics: Children, the aged, the poor, and those who cannot find jobs that pay enough to bring them above the poverty line. Mr. Munro's thesis is that the combination of tax and spending cuts has widened the chasm between the haves and have-nots in our society. As he explained to his business colleagues:

> The budget cuts are leaving serious and immediate human needs unmet. And if the budget cuts continue as scheduled, the problems of the poor will worsen intolerably.
>
> As business executives, I don't think we should stand by and let this happen.

As an alternative to the economic road to ruin that this administration has put our Nation on, Mr. Munro suggests three alternatives: First, increase business contributions to job training and charitable organizations that help our fellow Americans in need; second, restore spending cuts which are hurting our fellow Americans in need and make cuts in a Pentagon budget where, as Mr. Munro notes, there is "a classic case of throwing money at a problem—with too little strategy or forethought"; third, as Mr. Munro stated "let's work to bring the tax cuts to a more reasonable level."

Mr. Speaker, this is an unusual speech that deserves attention from Members who wish to pay heed to the calls from America's business cummunity. Mr. Munro states the challenge succinctly:

> As business leaders, I think we have a special responsibility—and that calls on us to help correct the excesses of this budget and put us back on the path toward human progress.

The speech follows:

THE REAGAN ECONOMIC PROGRAM—THERE MUST BE A BETTER WAY

(By J. Richard Munro)

Thanks for the kind introduction. It's a pleasure to be here at the Union League Club. Unfortunately, we won't have Q's and A's after my remarks. So I'll just give you the answers now.

First: I'm sorry you're having trouble with your subscription—but I'm not the one to see.

Second: no, I'm not the guy who thought up the annual swimsuit issue of Sports Illustrated. I wish I had, though—I could have gone far in the company.

And third: Yes, we might be able to squeeze your boss onto the cover of next week's Time. You can discuss that with our advertising manager.

As President of Time Inc., I am glad to be here. Our founder, Henry Luce, was a lifelong and active Republican in the tradition of your follow Union Leaguer, Teddy Roosevelt.

As a young man, Harry Luce idolized Roosevelt, and, like him, he believed that the Republican Party and American business had an all-imporant social responsibility. Luce once said—and I quote—"our greatness lies not merely in the marvels we have achieved—it lies in the fact that we have achieved them not for the few but the many."

In keeping with that spirit, I want to talk today about the Reagan Administration's budget—how it falls short in both serving human needs and economic efficiency. Incidentally, these are my personal opinions, not necessarily those of our editors.

I know that business executives are not suppose to disapprove of the Administration's spending program. Polls show support among us hovering around 90 percent. That's a phenomenal vote of confidence.

Let me add that I support the new policies that promote growth, new investment, and greater productivity. For too long, we were putting too little aside for future needs. Our competitive edge had dulled, and something clearly needed to be done. Yet in the rush to fight inflation and stimulate investment, I fear that we have cut too deeply—that we have put too high a burden on the poor and elderly—and that we are jeopardizing the long-term goals of this program and the interests of business.

I am especially concerned about the cuts in social spending. They have gone too far, too fast. And too few of us understand their impact.

Most of us probably have found comfort in the notion that the cuts were marginal—just shaving a few percentage points off a $722 billion budget—and that the cuts fall equally on everyone.

The cuts are anything but even-handed—and the effects are far from marginal—as the numbers show. About 70 percent of the 1982 cuts now in place come from programs affecting the poor.

You can go down the line—education at all levels—jobs and training programs—Medicaid—housing aid—food stamps—school nutrition—support for poor families with children—energy assistance—unemployment insurance—and numerous other social services.

Every one of these received major spending cuts—adding up to $25 billion of the $35 billion total cut from the budget this summer.

That doesn't include $13 billion in more cuts just proposed—and the $100 billion in cuts projected for 1984. Although those cuts are mostly unspecified, programs for the poor will again be on the chopping block.

Combined with tax cuts that benefit mostly higher-income people, this program adds up to a major redistribution of money in our society—from the lower end to the upper end of the scale.

Despite Administration assurances, the truly needy will have to cut back family budgets that simply can't be stretched any more.

The truly needy include the elderly and disabled poor. But the group that concerns me most is children—in families headed by a woman.

Let me tell you about them. One out of six of all American children—about 10 million—lives in poverty today. One out of four of all children will need welfare support at some time before growing up.

About one out of six of all children has no regular source of medical care. One out of three has never seen a dentist.

Among black children, two out of five are poor.

Under the new budget, they are losing a little here and a little there—not too much taken one by one. But when the losses total several hundred dollars this year per family—with even greater losses next year and the next—that will have a great impact on their lives.

In short, the truly needy will be even needier when this budget cut reaches them. There will be less for that slim margin between a few comforts and being plain miserable.

We should also be concerned about the working poor—people earning at or around the minimum wage.

The budget cuts fell especially hard on them. And—ironic for an Administration concerned about over-taxation—they penalize millions of people who want to begin or continue fulltime jobs.

If a welfare mother perseveres and gets a paying job now—she's likely to lose food stamps, Medicaid, rent subsidies, income assistance checks entirely—and have to seek day care without government help. The amount she would earn above welfare benefits can be taxed away, in effect, at marginal rates often more than 100 percent.

For millions of working poor, the message is you're better off financially—and your kids are better off—if you stay on welfare.

Probably many will continue to seek jobs and work any way, because the work ethic is still strong in this country. But this budget has just built one more barrier for them to overcome.

We should also be concerned about the many social services—government and privately run—being cut severely under this budget.

In Fairfield County, my wife and I are active in the Juvenile Diabetes Foundation. It's just been hit by Federal budget cuts that sharply reduce its research program—a program making real progress in finding the cure for diabetes—the nation's third largest killer.

Actually, I think we can probably raise money locally to replace some of the loss. But what about similar organizations in the rest of the country—with no access to corporate contributions or well-funded local governments? How will they maintain services?

Plainly, many of them—especially those in low-income states and communities—have nowhere else to turn. They will simply close down completely or operate at half-speed.

Rather than give you a laundry list of other examples, let me sum up:

The budget cuts are leaving serious and immediate human needs unmet. And if the budget cuts continue as scheduled, the problems of the poor will worsen intolerably.

As business executives, I don't think we should stand by and let this happen.

Let me suggest why.

On a practical level, let's consider the opportunity cost of letting the cuts go through. This year, we have the chance to restore business incentives for greater investment and productivity. The President, the Congress, and—most important—the public are behind us.

Yet this public support will vanish if the burdens of this program remain so uneven—if people think that the rich and big business get all the breaks—and if the promised surge of prosperity pays off only for those already well off.

So far, inflation has come down significantly. Lower energy and food costs have led this improvement. In fact, without rising interest costs, inflation would have gone down much more rapidly.

Yet the other economic developments so far have been excruciatingly-prolonged high interest rates—unemployment at 8½ million and expected to climb—and the second recession in as many years.

While we can talk about the need for patience until the long-term benefits arrive, the next election is a year away—close to the bottom of what appears to be a deep recession—at the very time the budget cuts put more holes in the "safety net" for people.

Also, while the economy declines, big business mergers are taking place with the subtlety and grace of dinosaurs mating—safety, health, consumer, and environmental protections are weakening—civil rights enforcement is taking a giant step backward—and the share of taxes paid by corporations drops significantly.

That's not a scenario designed to build confidence in the current program. Consequently, in the next election, people may decide that they're not getting the changes they really wanted. And it'll be another generation before we get a similar chance to enact business incentives.

George Will wrote in a recent column that programs like social security spring from Americans' acceptance of "the ethic of common provision." He went on to say that President Reagan—quote—"must convince Americans that his conservatism is compatible with that ethic—that there can be conservatism with a kindly face."

Besides the political effects, let's consider the economic effects. Remember that, in a few years, the children of today will be our employees—adding, we hope, to our bottom line. On a larger scale, we want them to produce, earn, spend, save, pay taxes.

Because of the end of the baby boom, there will be far fewer of them available. And we can already read projections of labor shortages later in this decade—especially in skilled labor. Budget cuts in training and education will worsen that problem.

Consider also Social Security: there are three workers today for every beneficiary. In 30 years, there will be two—when the children of today should be in their prime working years.

Out of economic necessity, we can't afford to let the productive potential of any of today's children languish because of our neglect.

More than ever, they are vital to our future, and we should help them get the best possible start in life. That means good schools, good nutrition, health care, housing, stable homes—all the things we want for our own children.

Yet we're moving in the opposite direction now and in the foreseeable future. That disturbs me, and I think it should disturb you.

Let me make a modest proposal:

First, let's look to our own businesses for some of the solutions.

We can take up some slack by increasing corporate contributions to organizations that can help with these human problems. Time Inc. set an eventual goal of contributing five percent of pretax profits. Next year, we will pass the two percent mark. The average for all corporations now is one percent.

We could also look at the way we hire and train employees. Maybe we could take more risks in hiring young people, provide training in basic skills, or help with day-care services.

Certainly, we can—and should—aggressively pursue our own affirmative action programs. Just because federal enforcement has slowed down doesn't let us off the hook.

Second, let's work with our friends in Washington to restore some of the social spending cuts.

I don't mean a return to the status quo. There were programs and agencies that needed cuts or even eliminations. But let's sustain programs that helped people find and keep work—that gave children a better start in life—that helped the elderly and disabled.

And if we want to look for areas to cut, let's start with the trillion-and-a-half dollars for defense in the next five years. We're seeing at the Pentagon a classic case of throwing money at a problem—with too little strategy or forethought.

Third and finally, let's work to bring the tax cuts to a more reasonable level.

We could moderate the deficit considerably by paring down individual tax cuts and some of the special interest cuts, such as windfall profits exemptions.

With revenues plunging because of the tax cut and a deepening recession, deeper spending cuts remind me of the futile efforts 50 years ago to balance the budget. The policies under Herbert Hoover only added to the deepening depression.

I can't help but think that curing inflation depends on a healthy, growing economy. Today's approach—deliberately inducing two recessions in a row—reminds me instead of the old medical practice of leeching.

There must be a better way to cure inflation, and I think we should help find it.

These proposals aren't the final answer, I'm sure. But I think they make better sense than what we're doing now.

It's not enough to depend on a rising tide lifting all boats. The reality is that for most of the poor and elderly, that won't be much help.

A booming private economy—built with money withheld from vital social programs won't help someone who's too old or young for the job market, who can't find decent day care for their children, who has no job skills, or who's sick or disabled.

And if many of them will be helped in the long run—what do they do in the meantime?

Harry Luce once said that the business of business is America—that as executives and citizens we should help advance human progress.

Three years ago, in Yankee Stadium, Pope John Paul II said something similar:

"Nowhere does Christ condemn the mere possession of earthly goods as such. Instead, he pronounces very harsh words against those who use their possessions . . . without attention to the needs of others. . . . In light of the parable of Christ, riches and freedom create a special responsibility . . . a special obligation."

As business leaders, I think we have a special responsibility—and that calls on us to help correct the excesses of this budget and put us back on the path toward human progress.

Thank you.●

## TRIBUTE TO DAVID LEVINE

### HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. RATCHFORD. Mr. Speaker, I would like to take this opportunity to share with my colleagues the celebration of the 18th anniversary of the birth of an outstanding individual, David Levine. Active, concerned, and dedicated, David has consistently brightened the Halls of Congress, carrying out his work as a page.

On those many tiresome days and evenings when the legislation to be done looms over us, and we become weary and discouraged, David has always brought a youthful smile of friendship and a sparkle of enthusiasm, refreshing and recharging us to continue. He is a shining example of a page, and of an American.

Therefore, on this very special day, let us all as individuals, and as representatives of all the citizens of the United States, join in wishing him a very happy birthday.●

## WANTED: A 20TH CENTURY PAUL REVERE

### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. VENTO. Mr. Speaker, with all eyes focused and ears trained on the reauthorization of the Clean Air Act, let us not forget about another extremely important component of the environment, water. Like the Clean Air Act, the Clean Water Act is also being attacked by the administration. As in other antipollution proposals, the administration would turn over more responsibility to the States, thus, severely jeopardizing the water quality in most areas. Also, because the $2.4 billion supplemental appropriations measure—funds to be used for construction grants—is stymied, many States have been left with outdated or unfinished treatment plants. The lack of these funds will affect, and in some

cases, has already affected numerous jobs and led to the demise of many small businesses. The burden of maintaining or constructing efficient water treatment facilities will be placed on the States and the funds are being eliminated. How can States hope to have effective antipollution programs if they are unable to receive the necessary funding?

I would like to take this opportunity to bring to your attention, the following editorial "Needed: A Paul Revere" from the St. Paul Pioneer Press, February 18, 1982. This editorial emphasizes the importance of keeping a watch on the administration's efforts to weaken the effectiveness of the environmental laws. It is the responsibility of Congress to maintain this vigil to protect the environment from further deterioration.

The article follows:

[From the St. Paul Pioneer Press, Feb. 18, 1982]

NEEDED: A PAUL REVERE

Environmentalists need a modern-day Paul Revere stationed near the White House to sound a warning about which of the nation's anti-pollution laws is currently in danger.

With all eyes focused on the Reagan administration's plans for amending the Clean Air Act, the White House has been working on a new set of proposals to change the Clean Water Act. According to Anne Gorsuch, administrator of the Environmental Protection Agency, these changes would occur "only in those few areas where obvious statutory problems have emerged."

Others take a different view. J. Taylor Banks of the Natural Resources Defense Council said "the very roots of the Clean Water Act are being questioned by the administration."

The nation has made tremendous progress in cleaning up polluted waters since the passage of the Clean Water Act 10 years ago. We have come a long way from the days when some polluted rivers actually burst into flame (the Cuyahoga through Cleveland comes to mind), but the job isn't finished. The goal of the law is to return our waterways to "fishable, swimmable" condition by July 1, 1983, and to end all discharges of pollutants by 1985.

The administration's proposals would slow the cleanup process considerably. First, the EPA would do away with many national water-quality standards, leaving local communities to write and enforce their own standards. Second, the goal of "zero discharges" would be abandoned as impractical. Third, the EPA would make it easier for polluters to receive waivers from discharge standards. Fourth, the life of pollution permits required of industries and cities would be extended to 10 years from the current five years.

The effect would be a long delay in cleanup. The mandatory use of new pollution control methods would be postponed and the responsibility for clean water would be dropped on local units of government without either expertise or the financial resources to deal with industrial polluters.

Elimination of pre-treatment standards for industrial wastes flowing into city sewers would save polluters up to $4.5 billion by transferring this cost to tax-supported municipal treatment plants. This would be a double blow in some cities because President Reagan's new budget already calls for reduced federal assistance to municipalities seeking to replace outdated or inefficient treatment plants.

These proposals need a thorough airing in Congress. Meanwhile, citizens and members of Congress need a 1980s Paul Revere to warn them which part of the environment is currently under assault from the White House:

One if it's air, and two if it's sea;
And he on the opposite curb will be,
Ready to ride and spread the alarm
Through every Middlesex village and farm.●

## AN INSPIRING STORY

### HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. MITCHELL of Maryland. Mr. Speaker, I am very proud that I can share a bit of faith in the continuation of human kindness and concern for others with my colleagues. The following is the story of Willie and Helen McCray. This couple has reared, completely and partially, 22 children, including 3 of their own. I believe that the deeds of this outstanding family lend credence and pride to the concepts and continuation of family love, giving, sharing, and caring. As our economy and insensitive policies dictate that our families must lean more and more on each other, stories such as the following lend hope to the contention that this institution will not fail us.

A HUMAN INTEREST STORY

(Submitted by Willie and Helen McCray, Sr.)

This story is based on a couple who fought the odds and proved the experts wrong in their complete and partial raising of twenty-two children including three of their own. This story is presented by Willie and Helen McCray, Sr. Any names mentioned in this story may be fictitious:

It all started in late December, 1957 when I, then a Baltimore City Policeman, was walking a beat in west Baltimore. I noticed a little girl gathering food from various trash cans. I asked her why she was getting food from the cans. She very shyly responded by saying "to help feed my brother and sisters."

The child was 12 or 13 years of age. I called the late Policewoman Lt. Violet Whyte and asked her if I could take the little girl home with me. She stated that she would have to investigate the matter which was a procedure. That night when I went home, I explained the matter to my wife, Helen. We immediately decided that we were going to start helping children.

In the middle of January, 1958, a representative from the Department of Social Services had a very long interview with us, warning us about the problems we faced in trying to raise other people's children. The problems included different personalities, health, mental, and above all interference from the children's natural parents. But, she complimented us for having the idea of wanting to help. She also pointed out that there would be a very slight subsidy coming in each month to assist with the expenses. My wife stated that our love for children would supersede any options that may confront us; the children would be like our own (at that time we had two small boys 5 and 2 years of age).

In the middle of February, 1958, Helen called me and said, "Guess what? We have two little girls, 10 and 13 years old!" I was so excited that I came home early. After meeting the girls, I did what I didn't realize that I would be doing for the next 18 years and 19 more children. First, I would question the kids about what they liked most, then, I would attempt to find out as much as I could about their past. We would all be seated around the table with our own children and Helen and I pointed out to them that they were all our children. No one was better or worst than the other; there would be no foster parents, sisters or brothers in this home, we will be parents, brothers and sisters.

The first two kids were natural sisters and at the time we got right down to business of preparing them for school. Again, I did what I would be doing for the next 18 years. In each case the clothing that came with the kids were no good and Helen threw them out which meant that I would have to give her money to buy new clothing.

We always shared our pride, therefore, we would also up to this day, when our kids walked out of our house, they became models to most of the neighboring children.

Helen and I were married 10 years before she was able to give birth to our first child, a boy, who at one years of age became nationally known as the first Carnation Milk Baby Winner. The next was also a boy who eventually became a very popular football player. We were very hungry for a daughter. In September, 1958 we had a little girl, (now an employee at the Gas and Electric Company). When Alice was born, the 10 year old girl became very jealous because she wanted to remain the baby girl. The 13 year old became so attached to the baby that the public thought the baby was hers.

In June 1961, we received a third child, again 13 years of age and a sister of the other two girls. Can you imagine, within a period of three years, we now had two boys and four girls?

The older girls were very smart in school and church. Helen showed a perfect example as a leader playing games, taking them to different affairs, and even playing bobby jacks with them. The girls soon organized a singing trio in church and a dancing trio.

We were very careful in bringing them up to try and keep them from going astray. The neighbors charged us as being too strict, but we meant we were going to set an example for these kids.

One year before the first two girls graduated from high school, we met for the first time their natural mother, who then wanted the children to come back to her home after their graduation, in order to help her. We had a conference with the girls and they stated that they were finished eating from trash cans and naturally they wanted to continue staying at home with us.

There were a lot of tremendous, serious illnesses among the older girls, one in particular was almost the victim of having to wear side bags the rest of her life and would never bear children if Helen had not made a dramatic stand against the doctor's wishes. Today this girl has two wonderful boys. The

first three girls all graduated from high school, married with families and still very close to us.

In 1962, there were two more girls taken into our household. Among these two girls we were successful in finally getting one of the girls through high school, after Helen had to go to school practically every week for her. She was a very beautiful child, but equally as mean. She finally graduated from Eastern High School and later married and had one child. The other girl we had to get rid of right away. She was too involved with drugs.

Then came the case that we will always have pride in. In 1964, Helen was awarded Mother of the Year from the Afro-American Newspapers. We were elected to go on speaking tours, make radio and television appearances. Helen was asked to come to Rosewood Hospital to speak to the retarded. After her speech, a little girl about 8 years of age, grabbed her by her coat and wanted to come home with us, which we wanted very much to do, but we were denied. Helen talked with the head doctor and he arranged for us to come out again to see the little girl. This time the little girl definitely didn't want Helen to leave. Thanksgiving was the next day, so they let us take the child home and keep her until that Sunday. Upon taking her back that Sunday, one day which we will always remember, our little daughter was crying and this little girl was having fits. The doctor took Helen and myself into a conference room and we left the two girls to play. These are the words the doctor spoke: "Mr. and Mrs. McCray, I know you have a wonderful reputation in raising children, but in this case you would definitely be a failure. This child has spent practically all of the last five years of her life in a darkened basement, just about alone by her selfish parents due to a denial of the father being the actual father. You wouldn't be able to do anything at all with this child. She is just about gone mentally and would never be able to attend public school."

We walked out with our heads bowed and saw the two girls playing together. I started to get Alice, our little girl, and the little girl grabbed Alice and said, "Take your hands off my mother." They both started screaming and my wife was crying. My wife then turned to the doctor and said, "Doctor, please if you give me a chance, I'll do my best to prove you wrong." And she did. Little Alice at 7 years of age, taught the little girl to read and write. Helen spent days and sitting up at nights rehabilitating this little girl. Today she is 24 years old, graduated from Eastern High School, attended Community College of Baltimore, studied criminal justice, is a security guard for the state and preparing to be a federal security guard. Three years before she graduated high school, we had a long fight with her natural father's attempts to block us from officially adopting her.

Then came Joe, a real problem child. We worked with him for nine years. He was determined that he wanted to be a girl. I kept him playing with the roughest boys, made him box the toughest guys until he finally got around the idea of being a girl. He took the roll of being too much of a boy by approaching his sisters, and we had to let him go. Wherever he goes, we always hear from him. He will always regard us as his natural parents.

Then came little Rodney, a little four year old, cute little light skinned boy. Rodney's body was covered with exema. The doctors at City Hospital had been treating him for four years for the disease. When Helen took him there after we got him, they offered her the same remedy they had been giving him. My wife refused. These were her words: "Why should you give me the same medicine that you have been treating him with for years that hasn't done anything for him?" The head doctor recognized Helen. He stated, "That's Mrs. McCray, let her take him home and bring him back in six months." Helen came home and mixed different salves and vinegar. This mixture completely cleared the child's skin. She took him back to City Hospital. The head doctor was very much amazed and asked Helen to explain to his staff what she had done to clear Rodney up so fast. Her explanation was, "Anything you have and love you will find some way of taking care of it." We adopted Rodney. He is an A student at Northern Parkway Sr. High School.

Next came little Jane and her brother, John. She was nearly two years old and her little body was badly bruised all over. Her parents were in prison for murdering one of their children. I will never know how Helen cleared this little child up. She had welts all over her little bottom. Somehow Helen cleared this child completely. This was the case that almost wrecked our entire lives. We had this little girl ready for school and for a reason in life I will never learn, they let the mother out of prison and took the little girl and boy back to her. It really hurt until this day. We later learned that the little girl was wandering the streets at seven years old and her little brother went to reform school.

Helen and I became very popular with the Department of Social Services. We were awarded the First Judith A. Hockreiter Award. Helen received the Community Service Award for her dedication and concern for others from the National Association of Negro Business and Professional Women's Club, Inc. We also received awards from the Mayor and Governor McKeldin, Governor Tawes and Governor Mandel. Helen also made several television appearances on "A Child is Waiting." She was sent to Chicago to speak to 11,000 foster parents on foster care and has been very instrumental in getting a major bill passed through the House of Delegates. We were also asked to go to Australia to represent Foster Care. She organized the first Foster Mother's Club in Baltimore and served as the first black on the State Advisory Board for more than 10 years.

In addition to all of her duties at home, public appearances, she still took time out to attend Community College of Baltimore and completed two courses in Sociology and Human Relations in 1976.

In all of Helen's speeches, she always included this phrase: "You may praise me but my husband has always been in my corner in whatever we attempted to conquer."

Back to the children. After Rodney, we adopted Andre who is now 14 years old. He is very slow in school. He attends Northern Parkway Jr. High School.

There were four other little boys including twins. One an 8 year old who has a mind of a 40 year old man. He was returned and later admitted to an institution. The other three boys were returned to their parents.

This has been a very tiring but rewarding experience from a dedicated couple who fought the odds to accomplish their mission.

When asked if we would do this again, we again drop our heads and then say after having a total of 22 children in our household, seeing 7 or 8 graduate and being responsible mothers and fathers with gainful employment and no police records, and last but not least adopting three children, the answer becomes "Yes".●

## ESTONIAN INDEPENDENCE DAY

### HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, February 24, 1982*

● Mr. BLANCHARD. Mr. Speaker, February 24th was the 64th anniversary of the independence of the Republic of Estonia. Tragically, however, the Estonians have not been allowed to enjoy peace and freedom for most of those 64 years—instead, they and the other Baltic nations were forcibly annexed by the Soviet Union and have been subjected to continuous attempts at Russianization.

For the past 42 years, the Estonian people have given the world a moving example of the strength that lies in a people's desire for freedom. The Estonians have bravely resisted Soviet domination and their actions have given inspiration to the free world.

Two years ago, on the 40th anniversary of the Stalin-Hitler pact which secretly signed away the Baltic States' freedom, representatives of the three Baltic countries of Estonia, Latvia, and Lithuania appealed to the United Nations to restore their independence. The Baltic nationalists also addressed an open letter to Soviet President Brezhnev and to U.N. Secretary-General Waldheim condemning the Soviet invasion of Afghanistan.

Mr. Speaker, I applaud the Estonians' fight for freedom and I believe we can do no less than the Estonians in standing up to international aggression. On the anniversary of Estonian independence, I would like to call my colleagues' attention to the remarkable efforts made by the Estonians to resist Soviet domination and, further, I would like to commend them for their actions.●

## DEFENSE FACES REALITY OF MARITIME SUPERORITY

### HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. BENNETT. Mr. Speaker, the Navy Times of January 15 carried the following able and interesting article by Gen. J. D. Hittle, USMC (retired), on a subject which General Hittle, former Assistant Secretary of the Navy, is well equipped to write upon. I join him in the hope that the United States may indeed obtain in years just

ahead the strength in naval power which is essential to our national security.

DEFENSE FACES REALITY OF MARITIME SUPERIORITY

(By Brig. Gen. J. D. Hittle, USMC (retired))

Defense Secretary Caspar Weinberger, according to press reports, has instructed the armed forces to achieve maritime superiority.

Such a directive, if it finally becomes national policy, could be one of the most important strategic developments in our country's history.

The reason is not complicated. At the end of World War II, the United States emerged as the world's number one seapower. But since that pinnacle of supremacy, the long-term trend in our naval power has been downward. What has been so dismaying, is that the sharp reduction in seapower has not been due to mere neglect. Rather, it has been the result of a series of strategic misconceptions and budgetary hatchet jobs.

Too many who should have known better interpreted the nuclear blasts over Nagasaki and Hiroshima as signaling the doom of the importance of naval power. From then on, so the fadish theory claimed—the big bomber, with a nuke in its belly, was the absolute weapon of future warfare. Big aircraft carriers were, in this line of thought, a relic of a bygone era. A topranking military officer solemly stated that probably never again would there be amphibious operations like most of those during World War II in the Pacific.

That misreading of future warfare was only a few months later clearly repudiated by MacArthur's landing at Inchon, Korea, that broke the back of the communist forces. Not even this dose of combat reality checked the long-term decline of our seapower. There were, of course, brief buildups, such as during Korea, and later in Southeast Asia. For example, in both wars battleships had major roles with their big guns pounding the enemy positions ashore. Then, when the shooting was over those big guns were laid up and towed to a quiet mooring in some Navy yard back channel. There they quietly rode the tides, testimonials to our failure to understand our seapower requirements. The planned recommissioning of New Jersey and Iowa is strong evidence that a revitalization of our seapower is in the making.

Yet, while U.S. seapower was in a declining trend in the period after World War II, Russian seapower has been on a spectacular rise. Our naval reduction and Soviet increase are now at the point where able naval thinkers can argue that the Russians have seapower supremacy. And all this has happened since the end of World War II, when U.S. naval power was the world's greatest, and Russia's was virtually zero.

It's hard to say precisely at what point this new recognition of our dependence on seapower began to take place. It could have been the threat to Persian Gulf oil sources after the fall of the Shah of Iran and the Russian conquest of Afghanistan, which put Russian armor only a short drive from the narrow Straits of Hormuz, the gateway to the Gulf. Or, it could have been, paradoxically, a delayed recognition of our truly profound strategic setback by our loss of the war in Southeast Asia. This has imperiled the long-range safety of the Straits of Malacca, the narrow water corridor between the Persian Gulf—Indian Ocean area and the Pacific.

Our new interest in seapower could have been triggered, also, by the well-orchestrated Russian effort for control of the Horn of Africa, which, combined with the pro-Soviet regime in South Yemen, would endanger the sea lanes funneling into the southern exit of the Red Sea—Suez water corridor.

Probably, though, it has been a combination of these and many minor threats posed by the rise of Soviet seapower and our self-imposed decline. The historical truth had to be faced that either we, as a nation, put an end to our folly of losing our seapower supremacy, or our folly, and Russian seapower, would inevitably put an end to us.

Politics aside, it is only fair to note that the danger of declining naval strength has been recognized by the Reagan administration. So, if Secretary Weinberger's instructions to achieve maritime superiority—so well advocated by Navy Secretary Lehman—are put into effect, our nation will have made an historic reversal in defense policy. It will mean many things for the better, not the least being an over-due return to some strategic fundamentals, and thus a renaissance of U.S. seapower.●

## WHITTIER HIGH SCHOOL BAND AND DRILL TEAM HONORED FOR THEIR ACCOMPLISHMENTS

### HON. WAYNE GRISHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. GRISHAM. Mr. Speaker, today I would like to bring to the attention of my colleagues the exceptional accomplishments of the Whittier High School Band and Drill Team. Under the superior leadership of Principal Michele Lawrence, and Assistant Principals Leo Fessenden, Herb May, and Morris Padia, the Cardinal Band and Drill Team have consistently won honors throughout southern California.

Aside from promoting spirit at numerous football and basketball games, assemblies, pep rallies, and special functions, the Cardinal Band most recently had a special program for John Williams, conductor of the Boston Pops Symphony Orchestra, and composer of the movies scores to "Star Wars" and "Raiders of the Lost Ark."

The drill team, although usually accompanying the band, also performs in individual dance competitions. This year this dance team swept national competition and is on its way to Japan to represent Whittier High School and the United States.

A few of the numerous awards presented to the Cardinal Band and Drill Team include band sweepstakes from the Los Angeles County Fair best of the bands competition for the second consecutive year, band sweepstakes and first place for the drill team from the Pomona Christmas parade, and band sweepstakes, drill team sweepstakes, and first place for flag twirlers and the solo twirler in the Whittier Union High School district band jamboree.

The Cardinal members truly represent a collection of the finest performers in their age group. I am proud and honored, Mr. Speaker, to represent these fine students, and applaud their tremendous accomplishments.●

## ENTERPRISE ZONES: A SECOND LOOK

### HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LUNDINE. Mr. Speaker, there has been much debate in the last couple of years about "enterprise zones." Undoubtedly, that debate will take a more serious turn, now that the President has included the proposal in his 1983 budget.

The administration's enterprise zone program disturbs me a great deal. An excellent "Op-Ed" article by Prof. William Goldsmith, in Monday's New York Times, summarizes many of my concerns. Professor Goldsmith, for example, gives a convincing preview of what might happen even if some of the enterprise zones should meet with initial success.

But, the second possibility which Professor Goldsmith considers is far more worrisome. In all likelihood, the concessions offered under an enterprise zone will not attract much investment. If that is true, embracing enterprise zones in the name of a new urban policy would be a cruel hoax. It would only defer the revitalization of our inner cities, while playing falsely with the hopes and aspirations of those who are stranded in America's decaying urban centers.

Today's deteriorating economy furnishes a further warning about enterprise zones. The central premise of the President's economic recovery program is that tax cuts, by themselves, are sufficient to generate new capital investment. Judging from businesses' investment plans for the coming year, that theory has already been repudiated. If tax incentives are not sufficient to generate economic recovery for the Nation as a whole, one can hardly imagine that a few more concessions will revitalize the most blighted neighborhoods in America.

The record is rather clear, I think, that tax abatement is a very inefficient way to leverage private investment; one gives a lot to get very little. Moreover, tax relief provides scant incentive to newly formed small businesses, whose tax liabilities in the first few years are slim, but whose access to affordable capital is problematic.

I am indeed distressed by the prospect that Congress might exchange

time-tested programs of direct business assistance—such as the urban development action grants, Economic Development Administration loans, Small Business Administration loans, rural business and industry loans, Appalachian Regional Commission aid—for an unpromising experiment in tax abatement. Yet, all of those current programs are indeed slated for extinction under the President's 1983 budget. As a former mayor who has struggled with the problems of local economic development, I know that such programs of direct capital assistance can make the crucial difference in encouraging private sector development.

These caveats merit close attention as the administration's enterprise zone proposal is considered in the coming months. Professor Goldsmith has fired a sobering first salvo in what promises to be a heated debate on the issue. I commend his article to my colleagues' attention.

[From the New York Times, Feb. 8, 1982]

ENTERPRISE ZONES

(By William W. Goldsmith)

ITHACA, N.Y.—Apparently uninfluenced by widespread criticism of the enterprise-zone idea, President Reagan has put forward the zones as the main initiative in his urban policy. It is either an unreasonable idea, destined to fail, or a dangerous one, destined to be a catastrophe.

Technically, the proposal does not amount to much: In short, its incentives are insufficient to revive depressed urban areas. Politically, however, the proposal means a great deal. These zones could cut the few strands left in the "social safety net," reduce wages, and endanger workers.

The theory is that conditions in most older cities discourage business investment but that investment will come if government helps business to lower costs. Of course, Federal tax concessions, capital subsidies, and job-training aid to stimulate business are old ideas. In addition, enterprise-zone advocates want to waive minimum-wage laws and most health, safety, and environmental regulations. In these special enclaves, not only would taxation be lighter but labor costs would be lower. Government would subsidize business—but so would workers; in return, they would get jobs.

It is a mark of the exhaustion of liberal postwar policies in urban renewal, housing, and job development that this proposal is being taken very seriously, and not just by conservatives. A key Congressional sponsor is a liberal Democrat from the South Bronx, Representative Robert Garcia. Across America, mayor, city councils, and state administrations eager to create jobs are debating the shape of enterprise zones.

Proponents argue that Hong Kong, Singapore, and South Korea are good models. The closest parallel is often said to be Puerto Rico, which supply-siders tout as a successful precursor of the new program. As an enterprise zone, however—one with a 35-year history—Puerto Rico is no success. Instead, it illustrates the basic flaws in the idea. The benefits of low wages, negligible taxation, and political stability resulted in the huge investment that made the island a showcase in the 1950's. Nevertheless, since about 1970, its economy has stagnated, 30 percent unemployment and nearly three of four families dependent on food stamps. The collapse of the development program followed from its own internal contradiction: To the extent that "Operation Bootstrap" succeeded, thereby raising wages, it reduced the attraction for investors, and failed. there was no mechanism for internal generation of development, no real plan for coherent reorganization and structuring of the economy.

In principle, at least, the same fate awaits any initially successful enterprise zone in America. In the unlikely event that wages are low enough to attract private investment in the first place, as soon as wages threaten to rise, new investment will stop and established firms will begin to close.

In fact, the incentives won't revive cities. The South Bronx would win from the Urban Jobs and Enterprise Zone Act (the 1981 bill sponsored by Mr. Garcia and Jack Kemp, Republican Representative from upstate New York) a $1,250 annual wage subsidy for each worker. Analysts in New York's City Hall show this to be inadequate to attract firms or branch plants. In Connecticut, enterprise-zone incentives are even weaker. Furthermore, none of the bills would provide capital, the ingredient most badly needed by new firms.

The political danger of the zone idea is that it provides new weapons for the "reindustrialization" battle, which is No. 1 on the conservatives' agenda for economic reform. In Britain, where the Thatcher Government has established 11 zones, the original idea had Draconian elements. Although few of those ideas have surfaced in American legislation, their predictable presence in national debate on the zones should be terrifying.

The Administration proposes multiple zones across the country, and it encourages states to innovate with their own laws. The states, if left to their own devices, might declare wholesale war on labor's 20th century gains. One bill authorizing zones passed both houses in Illinois before being vetoed by Gov. James R. Thompson, under pressure from labor and civic groups. Early versions of the bill would have eliminated building codes, minimum wages, property taxes, and general state aid; would have weakened laws protecting health, safety, and the environment; and would have enforced right-to-work laws in specified urban zones.

The original proposals in Britain and America grew out of recognition that the global economy is drastically different than it used to be, that low-wage competition is severe, and that corporations have shifted huge investments from industrial to third-world countries. The Government will have to respond to these new conditions, but not with enterprise zones.

William W. Goldsmith, professor of city and regional planning, directs Cornell University's program on international studies in planning.●

## A TRIBUTE TO DAVID N. KENT

### HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. MOORHEAD. Mr. Speaker, in the recent state of the Union message given in this Chamber by President Reagan, he alluded to many modern day heroes scattered throughout the length and breadth of our society.

He was telling us that as a people we still have the courage, the devotion to others, and the determination that was the hallmark of our past greatness. He was saying that because we are a society full of heroes, we can and will solve those problems which press against us today.

I would like to take this moment to bring to the attention of my colleagues in the House one of the special people in my district. His name is David N. Kent. He is a 20-year-old resident of Burbank, Calif.

David was recently given the Honor Medal with Crossed Palms, the highest medal bestowed on a person by the Boy Scouts of America for valor and heroism.

Mr. Kent demonstrated bravery, skill, and an unselfish spirit in saving the life of a 25-year-old woman who was injured when the small plane he was piloting crashed in bad weather in the mountains north of Los Angeles.

While painfully injured himself, he dragged the woman from the plane just before it exploded in flames. Utilizing survival techniques he learned in the Scouts, he covered her with leaves, grass, and mud and constructed a temporary stucture to protect the victim from the elements. The following day, he fashioned two crude crutches and hiked 2 miles down the rugged mountain for help.

Because of Mr. Kent's skill and bravery, the woman is alive and happy today. I salute him for his courage and heroism.●

## THE ADMINISTRATION HAS MISGUIDED PRINCIPLES GUIDING PORT FUNDING

### HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. RAHALL. Mr. Speaker, it was recently brought to my attention that this country is spending $50 million to dredge the Mombasa Port in Kenya. this money is not being used for national security reasons, nor to strengthen our military position in that part of the world. It is being spent simply to make it easier for crew members to get from their ships to town on shore leave.

In light of the Reagan administration's proposal to withhold $150 million for inland waterway and ocean port operation and maintenance projects, I find the expenditure at Mombasa particularly disgusting.

Where are our national priorities when the administration will spend $50 million to make it easier for sailors to take shore leave in some foreign

land, but will not spend a single cent to enhance domestic ocean ports' ability to remain competitive in the world coal trade; a trade which not only brings in millions of dollars toward reducing our balance-of-payments deficit but provides a measure of energy security for our allied trading partners?

Following is a recent article and editorial from the Baltimore Evening Sun on the Kenya project.

[From the Baltimore (Md.) Evening Sun, Feb. 18, 1982]

U.S. MILLIONS DREDGING PORT IN KENYA FOR GOBS' LIBERTY

The United States is spending millions of dollars to modernize the Indian Ocean port of Mombasa in Kenya—with an eye to getting its warship sailors ashore more quickly after weeks of duty at sea.

The money is being spent to widen and deepen the approach and sides of Mombasa harbor so that large vessels, incuding gaint U.S. aircraft carriers, can dock in port instead of anchoring at sea.

Increasing superpower rivalry in the Indian Ocean has made this sweltering port town an important shore leave and provisioning stop for American vessels, allowed to dock here under a 1980 agreement with the Kenyan government.

But only the smaller frigates and cruisers can negotiate the narrow approaches and entrances to the port and steer a path through the reef-lined channel to seek safe anchor.

Last month the American aircraft carrier USS Constellation was anchored two miles out at sea, while two small warships from Britain, which also uses the port, were tied up inside the port.

On board, most of the carrier's 5,000-strong crew were waiting to get ashore to the Mombasa bars and clubs after 51 days at sea working up to 18 hours a day.

A small flotilla of boats, some chartered for the occasion, ferried the sailors ashore, where an army of girls, guides and souvenir salesmen waited.

Pitching and rolling in the swell, the liberty boats, as they are known in the U.S. Navy, made a picturesque sight.

But for the sailors the ride can be a frustrating and uncomfortable experience, and the trip can be delayed for hours if the weather is bad.

"You have to stand in line on board ship to wait your turn to get a liberty boat, sometimes an hour or more," an officer said.

"Then the journey to shore takes about an hour and a half; so a round trip can take up to six hours," he explained.

Such inconvenience should be eliminated next year when the harbor will have been dredged to allow the Constellation and ships of comparable size to enter the port, which at present can accommodate only vessels shorter than 800 feet.

The $50 million project involves dredging the approaches and blasting small bits of coral reef to clear a passage five miles long, half a mile wide and 15 yards deep, according to engineers.

"It will mean a great deal in terms of morale," said Capt. Dennis M. Brooks, commander of the Constellation.

It would also make supplying the ship much easier.

"Everything we get has to be dropped by helicopter or brought alongside in a boat; so tying up right by the shops will save a great deal of time," a senior officer said.

The carrier serves 15,000 meals a day, bakes 1,000 loaves of bread daily and goes through 5,000 pounds of meat and 10,000 pounds of vegetables and 3,000 pounds of potatoes every 24 hours.

A more interesting statistic for the local population is that an American sailor spends an average of $300 during a port call.

Last month there were an estimated 7,000 U.S. sailors as well as British crews in the town, a potential outlay of 2.1 million dollars during a stay of about 10 days.

Mombasa was bursting at the seams with young Americans drinking their first beer in 51 days—the U.S. Navy allows no alcohol on ship—and packing the discos and bars where the local girls are out in force.

Mombasa thrives on its tourism and adapts quickly to new markets. Many craft shops have huge signs in German advertising their wares because most tourists are from Germany.

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[From the Baltimore (Md.) Evening Sun, Feb. 22, 1982]

DEPENDS ON WHOSE PORT

Mombasa, Kenya, is a port city on the Indian Ocean. It is also an important shore leave and provisioning stop for the American Navy. But only small vessels can negotiate the narrow approaches to the port. When a giant like the USS Constellation visits Mombasa, a flotilla of "liberty boats" has to ferry sailors and provisions two miles. The round trip can take up to six hours—not exactly a joy ride for sailors who have been cooped up for maybe two months without beer or female companionship.

But it won't be inconvenient for long. The U.S. is spending $50 million to dredge the Mombasa channel. A passage five miles long, half a mile wide and 45 feet deep will be cleared. "It will mean a great deal in terms of morale," says the commander of the Constellation.

Morale, indeed. There's a morale factor in Baltimore, which depends on its port for life-sustaining commerce and, not incidentally, for the shipment of coal that would help free the West from its dependency on OPEC oil. It has been a long 11 years since Congress approved the Port of Baltimore channel dredging project. The agreement with Kenya allowing American vessels to dock at Mombasa is not yet two years old.

It makes you wonder about priorities.●

## LITHUANIAN INDEPENDENCE DAY

### HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 23, 1982*

● Mr. BLANCHARD. Mr. Speaker, February 16 of this year marked 64 years since the declaration of Lithuania's independence. This should be an occasion marked with joy. Instead, the central fact of our commemoration of this anniversary is a tragic one. For 42 of the last 64 years, Lithuania has not been an independent nation; rather, it has suffered immeasurably under Soviet domination.

The Soviet invasion of Afghanistan and the recent imposition of martial law in Poland has focused fresh attention on the pattern of Soviet domination—but as we have seen in Lithuania, Estonia, and Latvia, this pattern is not new. The actions of the Soviets are well-developed and calculated. Our response to the Soviets must show that we recognize this pattern and that we firmly oppose it.

It is timely, therefore, for us to remember the history of Lithuania and take to heart the lessons it provides. The Baltic nations were forcibly annexed by the Soviets in 1940 and their genocide began in earnest the following year. Through our delegation in Madrid, through an active and outspoken human rights policy and through action we take in Congress, the United States must continually speak out against the egregious violations of human rights by the Soviet Union, toward the men, women, and children in the Baltic States.●

## TAX-EXEMPT POLICIES FOR PRIVATE SCHOOLS

### HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. MITCHELL of Maryland. Mr. Speaker, I share the concern of many of my colleagues about the administration's recent decision to reverse the Treasury Department's 12-year-old policy which denies tax-exempt status to religious institutions that maintain racially discriminatory policies. The President's subsequent attempts to initiate legislation to rectify the negative impact of such a reversal are misleading and insulting to those of us who share a valid commitment to the elimination of discrimination.

The administration's actions should be viewed as just what they represent: An intent to diminish efforts to combat racial discrimination through the maintenance of strong policies at the agency level; an intent to place the blame on the Congress if such policies are not maintained through the passage of new legislation; and, an intent to ignore the existing legislative basis for the denial of tax-exempt status for the institutions in question. I find it quite ironic that an administration which is committed, purportedly, to eliminating excess rulings and laws, could embark upon a crusade which will waste the Congress time, and disregard an existing policy of longstanding.

I am in agreement with the U.S. Commission on Civil Rights, as well as other concerned groups, in their belief that, in accord with title VI of the Civil Rights Act of 1964, the Internal Revenue Code, and the Constitution, the President should direct the IRS to exercise its ample authority to deny tax exemptions to private schools that

discriminate on the basis of race, and the Internal Revenue Service should enforce the law. The last three administrations have supported a policy that has precluded the granting of tax exemptions to the type of institutions in question, and we must insure that the authority and enforcement powers remain intact.●

## ASHLAND, PA., 125TH ANNIVERSARY

### HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. YATRON. Mr. Speaker, I wish to bring to the attention of my colleagues in the Congress a historical event in my community which occurred on February 13 of this year.

That date marks the 125th anniversary of the Borough of Ashland, Pa., which was named after the estate of Henry Clay of Kentucky.

It is with great pride that I commend this community before the House and pay tribute to its citizens for their dedication to their borough and their country.

I know my colleagues will join me in congratulating the citizens of the Borough of Ashland on their 125th anniversary.●

## U.S. TRADE REPRESENTATIVE ON INTERNATIONAL TRADE

### HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DOUGHERTY. Mr. Speaker, I want to take this opportunity to share with my colleagues the remarks of the U.S. Trade Representative William Brock.

The pivotal importance of the GATT ministerial was the subject of Ambassador Brock's speech to the European Management Forum in Davos, Switzerland, on Monday, February 1, 1982. The audience included trade and other cabinet-level ministers from 22 nations, and over 200 business leaders.

Ambassador Brock's speech is a bold step toward a definitive understanding with regard to free trade. Hopefully, it can become the underpinning of a new international trade exchange policy—a shared commitment to make the trading system work.

The text of the speech follows:

HIGHLIGHTS OF ADDRESS BY AMBASSADOR WILLIAM E. BROCK

A great French philosopher of this century once wrote that "Freedom is the necessity to choose between alternatives." Today the alternatives facing the world trading system are narrowly limited, and the choice is critically important.

With rare exceptions, every nation in the world confronts the same crisis.

We all need increased foreign exchange to support purchases of energy;

We are all menaced by high unemployment, inflation, and payments imbalances which have reduced the real standard of living in most countries around the world and, finally and worse;

We are all tempted to adopt—and some nations have already adopted—restrictive trade policies to shield their domestic industries from import competition; domestic subsidies to maintain employment; and government credits and similar trade-distorting incentives to increase exports.

The result: A vicious syndrome, that misallocates resources, promotes incompetence, perpetuates inefficiency, institutionalizes market distortions, and leads to a cycle of trade inequities, declining real earnings, reduced savings and capital formation, slow or no growth, and inflation.

The resultant crisis is obvious, and so is the political response. Around the globe, calls for protectionism are louder and more shrill than they have been in 50 years.

I say this to you today not to bemoan the passing of an era of liberalized trade, but to prevent its passing. My Government believes in free trade, but we make no contribution to the achievement of that goal by ignoring attacks upon it by others. No nation can long sustain public support of a policy unless its people sense that there is equity for them in the application of that policy.

I understand the concern expressed about the current discussion of reciprocity in the United States. I am confident that, under this President, reciprocity will not become a code word for protectionism, but it will be used to state clearly our insistence on equity. Neither Congress nor the President can continue to tolerate unfair trading practices which adversely affect either our domestic market or our opportunity to trade elsewhere.

Part of the problem is that of national self-perception. The United States perceives itself as being an open and free market. The European Community perceives itself as an open and free market. Japan perceives itself as an open and free market. And, with a wink and a smile, each will acknowledge that its self-perception is flawed just a tiny bit by some exceptions.

Thus, one formula for the destruction of the world trading system begins with the self-serving view that each of us is as pure as the driven snow, and the problem is the other guy. The United States is not completely pure, and neither is anyone else.

The problem is that every country is tempted unilaterally to change the trading rules, and broaden the exceptions, as a way to deal with economic crisis. In short, each nation wants the long-term benefits of being part of the international trading system, but at the same time wants the luxury and license to change the rules whenever necessary and pursue its national interest in its own way without regard to consequences for others.

Countries can and should follow different paths of development, and we celebrate their right to do so. But, because there will be profound differences in how each country manages its economy, we believe it is crucial to structure and strengthen the world trading system anew to accommodate those differences in a rational, predictable, and equitable fashion.

There is more at stake this year than the problem of a sluggish world economy; the choices we make in 1982 are pivotal for the future of the world economic order. The dynamics of trade are such that if we do not move forward then we slide back. Either together we build the trading system of the future or we will each be condemned to rebuild the walls of the past.

This is a year of decision. And time whispers in our ear, "It's later than you think."

These decisions will not come any easier by being delayed. We cannot blindly hope that a world economic upswing in the near future will allow these decisions to be avoided.

For the last 35 years, liberalization of world trade has focused on reduction of tariff barriers. This effort has been largely successful. Yet, as tariffs have eased, too many governments have developed a new sophistication in devising non-tariff barriers. Some of these barriers were addressed during the Tokyo Round; most were not.

The highly complex and rapidly developing service and investment sectors are particularly vulnerable to emasculation by non-tariff barriers. The Tokyo Round did not address those problems. Some of the most ingenious and insidious non-tariff barriers didn't even exist at the time of the Tokyo Round.

Some will say we need more time to put into place the arrangements made during the Tokyo Round, and in the meanwhile, we can congratulate ourselves and rest on our laurels. That won't work.

Of course we need to insist upon full implementation of the Tokyo Round, but we also need a renewed and revitalized trading system that is designed to deal with new barriers as they arise, before they undermine past negotiating achievements.

We need a trading system that recognizes its task will never be completed, a system designed for the unending process of analyzing problems, and developing solutions, before they explode into crisis.

The key test of our willingness to choose between alternatives and to start shaping a revitalized trading system is how we collectively prepare for the GATT Ministerial meeting, to take place in Geneva in November of this year. Those who argue that the GATT Ministerial should function as a ceremonial confirmation of the status quo have misjudged the temper of the times.

The Government of the United States is committed to making the GATT Ministerial a beginning, and not an end. Each nation now must decide whether to make the political commitment to inventory, analyze, and seriously discuss the new threats to world trade, or choose the easier but infinitely more dangerous alternative of simply going to one more meeting to exchange platitudes and pleasantries.

At the GATT Ministerial and beyond, there is room enough for pragmatists and visionaries alike.

We must come to grips with the problems of investment and all the attendant problems of liberalizing the free movement of capital.

We must commit ourselves to talk seriously about trade in services, a critical element in future economic growth.

We must take a new look at the thorny question of safeguards and the problems of structural adjustment to deal with changing economic conditions.

We must perfect arrangements for trade in agriculture, for the mutual benefit of producer and consumer.

We must devise better methods to include and involve less developed countries in the

world trading system. We must make progress in not only providing them market access in products where they have comparative advantage, but also encourage them to assume a full share in responsibility for managing the world trading system. For those of you here today and millions of others around the world who are committed to economic freedom, it must be obvious that the foreign exchange which developing countries can earn through trade dwarfs the funds available to them through development assistance. Freer trade, more nearly than aid or import substitution strategies, will enable less developed countries to build a house for themselves that will be safe from violence when built.

We must focus on the challenges of trade in high technology.

We must improve rules and methods to deal with non-market economies so that they are able to compete in the world market, but compete fairly without exporting price and cost distortions along with their product.

We must deal with the manyheaded hydra of non-tariff barriers, and other trade matters that were not even contemplated when the GATT was first formulated after the Second World War, or during the seven negotiating rounds since then.

And, beyond the Ministerial, we must move towards a system that will accomplish these purposes.

We live in an interdependent world. We would not have it otherwise. We are free to choose between alternatives, but that choice is narrowly limited to going ahead or going back.

For those who are willing to build upon, improve and strengthen the GATT and other multilateral institutions;

For those who see the future as a fresh opportunity, and not a threat;

For those who hold fast to the goals of free trade;

For those who affirm that every nation can share in a greater common prosperity, instead of dividing diminished rewards;

For those who recognize that the free movement of goods, services, and capital is the best means the mind of man has yet devised to guarantee to all peoples the benefits earned by the sweat of their brow;

For those who believe in these things, you have a willing partner in the United States.

In the hands of all the trading nations rests the decision of whether the GATT Ministerial will be the overture to a new era of progress and prosperity, or a grand final chord.

Let us choose the better way: Let us join in a shared commitment to stop the excuses, and make the trading system work.●

## HONORING EDWARD L. JOHNSON

### HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. ROUSSELOT. Mr. Speaker, let me take this opportunity to honor and bring to the attention of my colleagues the fine achievements of a distinguished resident of California's 26th District, Edward L. Johnson. Few of us can count as many accomplishments and all of us admire one who has put so much endeavor into his life.

Edward L. Johnson, chairman of Financial Federation, Inc., represents the highest ideals in the financial community. A longtime resident of southern California, he is widely known and respected for his many professional accomplishments in addition to having contributed to numerous civic and philanthropic activities.

The executive's endeavors on behalf of philanthropic and civic institutions reads like a "Who's Who" of public service. A vice chairman of the City of Hope Board of Trustees, he is director of Goodwill Industries of southern California, board member of Pepperdine University, and a member of the Association of Students and Business, UCLA Graduate School of Management.

A graduate of Northwestern University, where he was an instructor, he has served in similar teaching posts at the American Savings & Loan Institute in Los Angeles and Chicago. Professionally he is active in the National Association of State Savings & Loan Supervisors, U.S. League of Savings Associations, Council of Better Business Bureaus, Inc., the Conference Board, and is an honorary life director of the Los Angeles and Chicago chapters of Lambda Alpha, international honorary land economics fraternity.

Ed Johnson is an American. He has a deep appreciation of our American Government, the Constitution of the United States, and the consummation of the American dream. He has made an effort to know the dedicated men and women who serve in public office and has contributed in an open and generous manner to those whom he believes will protect and preserve our heritage. Ed Johnson has labored, invested, and benefited from a productive life. Others have benefited, too.

There you are. Edward Johnson is the kind of person who exemplifies the saying, "If you want to get something done, find a busy man to do it." He loves people and has proven this in his business, civic, and personal endeavors.

Mr. Speaker, at this time I am proud to honor such a notable member of the Nation's business community.●

## THE 1982 WORLD FREEDOM DAY MEETING OF THE REPUBLIC OF CHINA

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DERWINSKI. Mr. Speaker, on January 23 of this year, the 1982 World Freedom Day rally of the Republic of China was held in Taipei. The great gathering of people from all over the free world at that rally, were addressed by Dr. Ku Cheng-kang, the rally chairman, and our colleagues Senator FRANK H. MURKOWSKI, and Representative TRENT LOTT, who were in Taipei at the time.

The occasion was the famous January 23 celebration which commemorates the day of decision for thousands of Chinese from the Communist mainland who chose to go to Taiwan rather than return to the Communist state. On Taiwan, they joined people united in the cause of freedom who are living proof of the benefits the free enterprise system can produce. The economic growth in the Republic of China stands in stark contrast to the economic decline on the mainland.

I wish to insert a speech made by Dr. Ku Cheng-kang and a copy of the declaration of the meeting which I hope that the Members will find of interest:

The 1982 World Freedom Day Meeting of the Republic of China has been held momentously in Taipei today by people of various circles representing compatriots of the whole nation—at home and abroad and behind the Chinese mainland enemy line—along with friends from all world regions who are similarly fighting for man's freedom. Hoisting the torch high amid 23 sounds of Freedom Bell, we resolved to promote expansive development of the anti-Communist surge.

We have reviewed the turbulent global situation over the past year, and we see that although the International Communists remain rampant in certain areas, those striving against slavery and for freedom are moving forward with new strength, fully in line with the common wishes of mankind.

As a powerful booster of free world posture, President Reagan's diplomatic policy of freedom through strength has dealt severe blows at Red rampancy. People under Moscow have received encouragement in their fight for freedom. Our countless enslaved compatriots on the Chinese mainland also are striving hard to gain light and be free.

The present vigorous rise of freedom forces is indeed encouraging. The great campaign of the Polish Solidarity union against tyranny and for freedom is a powerful demonstration of man's rejection of Communists. But we are profoundly concerned and regretful, for the free nations have not given effective timely assistance to the gallant Poles. Nevertheless, we are certain that the fire started by the Solidarity will spread and destroy Communist tyranny.

We are convinced that the internal contradition, rift and struggle of the Chinese Communists are fatal and quite beyond remedy by any power-holders, much less by Marxism-Leninism-Mao thought. The Red Chinese regime is destined to collapse, crumbling under the crisis of faith, trust and belief, falling apart in the face of our call for China's unification under San Min Chu I (Three Principles of the People).

We are unanimously of the view that no matter how outrageous the International Communists may get and how hard the Chinese Reds push their united front scheme, freedom will remain as the correct target of history's development, and the pressing free world mission is to unite all freedom forces and save mankind from holocaust.

This Meeting therefore solemnly point out the following:

First, the world conquest plot of the International Communists is an all-inclusive one, not of regional nature. Free nations, the United States of America in particular, therfore should abandon tactics of alliance with one Red group for opposition to another, reject Communist deceit and blackmail, stop providing weapons and knowhow to the Chinese Red, and enhance the Republic of China's strength in the Taiwan Straits for the preservation of freedom and security in the Asian-Pacific region. All must strive resolutely as one so that the freedom of the free will be assured as the enslaved masses are restored to freedom.

Second, struggle against slavery and for freedom cannot be effective if it is scattered and isolated. Free nations and peoples should adopt a uniform strategy and, standing on a joint battefront, hit hard at the enemy. The freedom campaign hereafter should have in its core the strength of the 900 million Chinese mainland people who are opposed to Communism and fighting to free themselves. All the freedom-fighters behind the Asian Iron Curtain must be joined with the freedom forces outside for endeavor to overthrow the Communists of China, Korea and Vietnam, and furthermore be united with others elsewhere for the destruction of Red tyranny and the building of a new world of freedom.

Third, anti-Communist struggle depends not only on materials but more importantly also on spiritual exertion. San Min Chu I, an embodiment of the orthodox thinking and cultural essence of the Chinese, is for freedom and democracy and serves as our nation-building guideline of love and benevolence. The achievements thus made in the Taiwan-Penghu-Kinmen-Matsu area are objects of envy by the multitude on the mainland. China must be unified under the San Min Chu I guideline of national construction. Only when San Min Chu I is implemented in all of China, replacing Communist dictatorship and its anti-human traits, can all Chinese truly enjoy well-being in freedom.

All the compatriots of China and all the freedom-loving friends of the world: Communism has gone bankrupt and Communist dictatorship is collapsing. San Min Chu I has already made its landing on the Chinese mainland. China will ultimately be unified in freedom and democracy. Let us pool the world's strength for freedom and strive as one for Chinese unification and freedom, and for global security and peace.

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## Strive Ever Harder for Freedom—Fight to Victory Over Communists

(By Dr. Ku Cheng-kang at 1982 World Freedom Day Meeting of the ROC)

Premier Sun, Representatives of Various Circles, Distinguished Guest, Ladies and Gentlemen:

### I. ARRIVAL OF A GREAT AGE

In the history of man's quest and assurance of freedom, a great age has now arrived—an age of freedom's victory. "World Freedom Day" is a powerful call of this age.

Throughout the world, the determination of those who stand for freedom is being enhanced. Strength for freedom is growing vigorously. This is in sharp contrast with the continuing decline of the confused and contradictory Communist camp. The notable changes are:

First, free nations are now awake, after going through the failure of appeasement in the 1970s. President Reagan of the United States of America is endeavoring for freedom and security through strength. Examples include his uncompromising attitude in regard to strategic arms limitation talks and his exercise of stern economic sanctions immediately after Moscow made the Polish Reds suppress the unionist surge. This firm U.S. posture against Red expansion is encouraging to people everywhere who love freedom. Anti-Communist unity and cooperation are thus being promoted among free nations.

Second, Chinese at home and abroad have started an intense campaign of national unification under the Three Principles of the People. Peiping's united front plot has been crushed. Being further spurred are the campaigns for freedom, democracy and human rights waged by the 900 million people on the Chinese mainland. The campaigns have been elevated with demands that Communism be abolished and replaced by the Three Principles of the People. The tyrannical Red Chinese rule is faced with total negation and rejection by the masses of people under the regime.

Third, the Polish workers gallantly rose against red tyranny. Their strikes developed into all-out struggle against Communist rule and for freedom. This is not just another Hungarian Revolution or Czechoslovakian Uprising. The Polish action mirrors the growth of freedom forces in East European satellite states—a growth bound to shape up an anti-Communist torrent that will be joined by freedom fighters in the U.S.S.R. and ultimately crush the whole Soviet empire.

Communist rule everywhere—Soviet Union, Chinese mainland, Eastern Europe, North Korea, Vietnam and Cuba—is bogged in the predicament of sluggish production, economic retardation and doleful life conditions of the ruled masses. No Communists, regardless of the extent of their revisionist struggle, can effectively overcome those failures that have been caused by built-in factors of Red systems. On the other hand, rising productivity and living standards in the outside world have eloquently demonstrated the absolute superiority of free democratic systems. The sharp contrast has pushed Communist theories to bankruptcy. The fall of Communism is a foregone conclusion of history's development.

### II. CHINESE REDS ARE DOOMED; CHINA WILL BE UNIFIED IN FREEDOM AND DEMOCRACY

The decline of Communism has been particularly clear in the case of Chinese Communists. The Chinese Reds are doomed. China will be unified in freedom and democracy.

By moving from the Cultural Revolution to the purge of the Gang of Four and criticism of Mao, the Chinese Communists plunged themselves in a serious crisis of confidence.

The failure of the "four modernizations" program and the confused "economic adjustment" have aggravated the crisis of confidence.

People on the Chinese mainland are calling loud for emulation of the Taiwan economic example and the Taipei political example. This is an unmistakable manifestation of the grave crisis of confidence confronting the Chinese Communists.

The Red Chinese regime is faced with an all-out opposition by the mainland people. Young men and women want proper schooling and employment. Workers are asking for improvement of living conditions. Peasants are demanding farming on their own for their own benefit. Intellectuals are calling for freedom of thinking. All indications point to a wide-spread negation of Communism and a popular inclination toward the Three Principles of the People.

If the Chinese Communists really want modernization, they will have to give up Communism and tyranny. People will keep on opposing them if they stick to their "four-point insistence." The Chinese Reds are in a dead alley, unable to escape history's punishment or obstruct China's unification in freedom and democracy.

### III. NECESSARY STEPS TO VICTORY OF FREEDOM OVER COMMUNISM

To speed up the process to victory over Communist forces of enslavement, we must on this great World Freedom Day call upon free nations to take the following necessary steps:

First, global strategies must be established against all Communists. Tactics of alliance with the Chinese Reds for opposition to the Russians are mistaken and should be abandoned. The United States Government must pay special attention to the Chinese Communist plot to deceive and blackmail Americans by capitalizing Moscow's expansionist threat against the free world. Concession and appeasement will only invite exploitation. Sale of weapons knowhow and production facilities to the Chinese Communists will pave the way for that regime's rise as another serious threatening force against the free world.

Second, freedom must be resolutely safeguarded through strength. Communist expansion, infiltration and subversion must be sternly dealt with. Spiritual and material assistance must be given positively to the struggle for freedom waged by the people of the Soviet Union, Chinese mainland, Poland, Vietnam, North Korea, Cuba, etc. A chain of anti-Communist revolutions should thus be started behind the Iron Curtain of the East and the West.

Third, the endeavor of Chinese at home and abroad for China's unification in freedom and democracy should be actively supported. Similarly to be enhanced is the Republic of China's strength in the Taiwan Straits for the defense of freedom and security in the entire Asian-Pacific region. The 900 million Chinese mainland people should be returned to freedom as soon as possible, for that will mean that much manpower for the free democratic camp and that much stronger assurance for man's freedom.

Ladies and gentlemen: Because of our anti-Communist struggle, freedom and democracy will ultimately prevail, replacing Communism and enslavement everywhere. To accelerate the change to bring about that ultimate victory, we must draw a clear line between friend and foe, strengthen the unity of freedom forces throughout the world, build a common security system of all free nations and, firmly standing on the foundation of global anti-Communist strategies, bring forth the greatest ever pooled strength for freedom. That day will mark the end of Communism and enslavement.●

## HARASSMENTS OF REFUSENIKS IN RUSSIA

### HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DeNARDIS. Mr. Speaker, I am once again honored to take part in the Congressional Vigil for Soviet Jews. While progress has been made to help ease the plight of these politically oppressed citizens, a great deal more needs to be done to insure that the denial of their basic human rights does not continue unabated. In fact, recent emigration figures reveal that the number of Soviet Jews allowed to emigrate during 1981 has slowed to a trickle.

Today, let us focus on the case of Stanislav Zubko, a long-time Kiev refusenik, and my adopted "Prisoner of Conscience." On May 16, 1981, the Kiev KGB entered Zubko's apartment on the pretext of investigating a robbery next door. Once inside, authorities allegedly confiscated hashish and a firearm, and more significantly, a Hebrew book.

Zubko was brought to trial in July and charged with "illegal keeping of arms" and "illegal possession of drugs" (under articles 222 and 229 of the Ukrainian Criminal Code, respectively). He was sentenced to 4 years in a labor camp. Declaring his innocence, Zubko stated that the pistol and hashish found were placed there by the security police.

Prior to his incarceration, Zubko had been a leader in the protests of the Kiev refuseniks. At one point, he was arrested and charged with "contemptuous behavior and use of improper language in a public place" in connection with a telegram sent to the 26th International Communist Party Congress. The protestors' telegram merely expressed concern about the local situation. In the United States, we would consider this a basic human right—freedom of expression; yet Zubko, for his action, spent 30 days imprisoned.

Zubko is one of many Kiev refuseniks who have been arrested and imprisoned under highly questionable circumstances, seemingly as a way to suppress the growing feeling of dissatisfaction toward the Soviet regime for its abuses of basic human liberties. With our continued support and assistance, however, the dream of freedom long held by these brave individuals can move closer to becoming a reality.●

## COMMITTEE OF NORTHERN VIRGINIA DEALERS AGAINST DRUNK DRIVING

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. WOLF. Mr. Speaker, we are all aware of the disastrous increase of drunken drivers on America's highways. Not a day goes by that there is not an automobile accident involving an intoxicated driver. The tragic consequences of drunken driving must be halted immediately.

I would like to commend the Northern Virginia Automobile Dealer Association for taking action on this vital issue. They have organized the Committee of Northern Virginia Dealers Against Drunk Driving to help quell the needless destruction by drunken drivers on Virginia's highways. Chairman Don Beyer, my constituent, testified at a hearing on Senate bill 144 in the Virginia General Assembly on February 10, 1982. Chairman Beyer and his group should be recognized for their outstanding involvement in this problem. I would like to submit Mr. Beyer's testimony to the RECORD at this time.

TESTIMONY OF DONALDS S. BEYER, JR.

My name is Don Beyer. I am the president of Don Beyer Volvo in Falls Church, Virginia. I come before you this afternoon as chairman of the Committee of Northern Virginia Dealers Against Drunk Driving, organized by the Northern Virginia Automobile Dealer Association.

This committee represents 72 new car dealers, employs 6000 people, with annual sales of well over One Billion Dollars. As a group, we contribute a great deal to the economy of our community. But recently, we have begun to look at the further meanings of our role as automobile dealers. We exist to serve the transportation needs of the public—yet these needs do not end with the sale and service of vehicles. As dealers, we have become increasingly aware of the tragic personal and economic hardship caused by automobile accidents. And, from federal data, we have learned that the most efficient way to make automobile transportation safer is to get the drunk and drugged driver off the road.

I present you with our petition from the committee of Northern Virginia Dealers Against Drunk Driving, which I now will read:

Whereas drunk driving remains a major cause of needless death and injury on the highways of our Commonwealth, and

Whereas over 500 people, each week in the United States, are killed by drunken drivers, and

Whereas current drunk driving legislation has a negligible deterrent effect, due to the gentleness and uneveness of application of its penalties, and

Whereas Senate Bill 144, introduced by Senator Joseph Canada, provides for much stricter and more appropriate penalties for first and repeat offenders,

We, the new car dealers of the Northern Virginia Automobile Dealers Association, do hereby petition the General Assembly of the Commonwealth of Virginia to enact Senate Bill 144 without delay, and to ensure this new law's maximum effectiveness by budgeting sufficient money for enforcement of the law and adequate public information concerning the law.

For the sake of our children, for the sake of us all, we urge you to act favorably upon Senate Bill 144.

A PETITION PLEADING ENACTMENT OF SENATE BILL 144

Whereas drunk driving remains a major cause of needless death and injury on the highways of our Commonwealth, and

Whereas over 500 people, each week in the United States, are killed by drunken drivers, and

Whereas current drunk driving legislation has a negligible deterrent effect, due to the gentleness and unevenness of application of its penalties, and

Whereas Senate Bill 144, introduced by Senator Joseph Canada, provides for much stricter and more appropriate penalties for first and repeat offenders,

We, the new car dealers of the Northern Virginia Automobile Dealers Association, do hereby petition the General Assembly of the Commonwealth of Virginia to enact Senate Bill 144 without delay, and to ensure this new law's maximum effectiveness by budgeting sufficient money for enforcement of the law and adequate public information concerning the law.

Most Sincerely,

Dick Herriman of Dick Herriman Ford Inc., and 28 other signatories.●

## PRESIDENT DESERVES OUR SUPPORT

### HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. HILLIS. Mr. Speaker, the importance of Central America and the Caribbean Basin was clearly defined by President Reagan in his speech before the OAS last week. The President set forth a comprehensive program to help our neighbors in this hemisphere by offering special trade and economic opportunities, as well as security assistance where necessary.

I strongly support the administration in these new policy initiatives because I believe they represent an attempt to deal with some of the root causes of the economic problems in Central America.

However, it would be naive and imprudent for us to ignore the fact that outside forces—sponsored and supported by Communist-backed regimes—are attempting to exploit the problems in this region. Buses have been burnt, bridges have been destroyed, power stations have been sabotaged, and the population has been generally intimidated in a blatant attempt to subvert the coming elections in El Salvador.

If we fail to provide a wide range of help—including the security assistance

which President Reagan has called for—then we run the real risk of seeing more Havana-style governments on our doorstep.

Mr. Speaker, I urge my colleagues to set aside partisan ideology and wishful thinking when dealing with the problems in Central America. The fact is, the threat is real and the President deserves our support.●

## A TALK WITH T. H. BELL

**HON. DANIEL B. CRANE**
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DANIEL B. CRANE. Mr. Speaker, in the September 1981 issue of Mainliner magazine Secretary of Education T. H. Bell discussed a variety of education issues facing his Department and Congress.

I commend this excellent interview to the attention of our colleagues.

### A TALK WITH T. H. BELL

THE SECRETARY OF EDUCATION DISCUSSES THE THORNY PROBLEM OF DISMANTLING HIS OWN DEPARTMENT

(Interview by Edward B. Fiske)

T. H. Bell is most certainly the only native of Lava Hot Springs, Idaho, ever to become a member of the Cabinet of a president of the United States. Born there on November 11, 1921, the future secretary of education attended the local schools and went on to Southern Idaho College—not knowing at the time that it was devoted to turning out teachers. He apparently liked the idea, though, for he became a chemistry instructor and began a rapid ascent through the ranks of public education, first in Idaho and Wyoming and then in Utah, where he became state superintendent of instruction in 1963.

Bell (who dislikes his given name of Terrel and prefers to be called T. H. in print and Ted in person) was first called to Washington to serve in the U.S. Office of Education in 1970. After another stint as a school superintendent in Utah, he returned to the capital in 1974 as U.S. commissioner of education during the Nixon administration. In 1976 he became commissioner of higher education in Utah, and in 1981 President Reagan tapped him to become the second secretary of education. In this capacity he is the principal spokesperson for the Reagan administration on education matters and, equally important in the eyes of the education community, the principal interpreter of the needs of education within the administration.

Mainliner: The Reagan administration is talking a lot these days about returning education to the local government level. With the federal government putting up only eight cents on the dollar, isn't education already a local endeavor?

Bell: The funding is local, but unfortunately a large amount of the control and policy direction has shifted to the federal level. Look at all the rules Congress has passed about bilingual education, special education and Title IX for women. Congress may not dominate education, but it has certainly been calling more than 8 percent of the shots.

M: What should the federal role be?

B: The federal government ought to be concerned about entire populations, and gross deficiencies that are nationwide in scope; its resources should be used when there's little prospect of correction without some kind of urging from the federal level.

M: Isn't this what the Democrats in Congress have been saying in recent years—that Washington is the last advocate of the poor or handicapped or various other disadvantaged groups?

B: Yes, but it's how we do it that concerns me. All too often the Department of Education ignores the fact that there is a big effort out there by the state systems and local school districts. They are the ones who should be front and center in meeting their own needs. In our zeal we've overwritten the regulations and behaved in such a way that the state people have sort of stepped back and let us do it.

M: Can you give me an example?

B: In Pennsylvania, some advocate sued the chief state school officer, saying, "You cannot have a normal 180-day school year for handicapped children because the law says that it's got to be a free and appropriate education." The courts read our regulations, and they found that the schools are indeed in violation of the rights of those handicapped children, since they are not providing more than the normal, nine-month school year. So they're about to force significantly more than a nine-month school year for handicapped children. I know that was not the intent of Congress when they wrote the law, but that's where the courts are moving.

In this case there are two things the Department did that I object to. First, we overwrote the rules; then we rushed up with our attorneys and entered the suit on behalf of the plaintiffs. We've got to say to our attorneys, "Look, there was an election last November, and there's a new administration in town, and you're on the wrong side of that case."

M: Any other examples?

B: Sure, the Title IX dress code requirements. The thirty-seven words of the law say you can't discriminate in your educational programs and activities on the basis of sex. We have interpreted that to include dress codes, and we've claimed the right to tell the schools and colleges how to enforce dress requirements. I don't think the federal government ought to be involved in arguments over length of hair and beards and skirts, not to mention see-through bras. That happened in a high school in Oklahoma. Braless high school girls were walking around the corridors, and a crusty old principal put out an order, "You've got to wear a bra." That's not a federal issue.

M: Part of your plan is to replace so-called categorical grants for specific types of children with block grants that would allow states and local school districts to lump these various funds together and use them as they see fit.

B: That's right. We are relating to fifty different state school systems, if you call them systems, and one state is vastly different from another.

M: But there's no enforcement mechanism built into your plan. What happens if the states decide to spend the money on tax relief or on the football team rather than on bilingual education?

B: It's not general aid. They still have to spend the money on behalf of the populations for which it was appropriated. If they don't, then they're in violation of the block grant law, and I can use the General Education Provisions Act to issue a cease and desist order and withhold future grants.

M: Would you expect to do this?

B: With fifty states, I'm sure it will happen. It's just that we can't say, "Well, you didn't do it our way: you don't have a pullout program for Title I youngsters [the program in which disadvantaged children are given special instruction] so you can't have the money."

M: Are you going to have the Burger King approach—do it your own way?

B: That's right. You know, there's a good model in what the government did to limit energy consumption in this country. We said to the states: Your legislature can set their speed limit any place they want it. But if you're going to qualify for your highway money, you've got to have the fifty-five-mile-an-hour speed limit. Well, they all have a fifty-five-mile-an-hour speed limit. The thing we did not do was employ a bunch of federal highway patrolmen to enforce it. That's why I object to what we're doing with education. We're making the wrong people the equivalent of the highway patrol—myself and my colleagues here.

M: The last time we had a big peacetime military buildup in this country was under Eisenhower, and the first thing he did was to pour a lot of new money into education, especially the sciences. The Reagan administration is trying to beef up the military, but it's doing the opposite in the sciences. You're cutting out funds for basic research and cutting the total amount of the block grants by 25 percent. Isn't this somewhat contradictory?

B: The Eisenhower situation was different from what we have now. He didn't inherit the economic mess that we have.

M: But can we cut back on basic research and still improve the technological capabilities of the military? Doesn't one feed the other?

B: Sure it does. There's no question about that. The question is how long and permanent the pull-back will be. Our hope is that this economy is going to turn around.

M: There's another irony here. The National Assessment of Educational Progress recently reported that the reading ability of nine-year-old blacks has improved dramatically in the last decade, and most people agree that this is due, in large part, to the success of Title I and other federally financed programs. Are you unhappy that you're cutting down on these programs just when they seem to be paying off?

B: Certainly I am. But once again, we expect it to be a short-term problem. And if we can get the economy back on track and get inflation under control, no one will benefit more than the schools.

M: The administration is committed to tuition tax credits, which would allow parents of children in private and parochial schools to take tax credits to offset their tuition expenses. How can you justify adding a new program that could cost up to $5 or $6 billion when you're cutting out school lunch, Title I and other programs as well?

B: Tuition tax credits are part of a tax-relief program. If we're going to have tax relief, I, as a person who's partisan on behalf of schools, would just as soon see some of that relief rebound to the benefit of education.

M: So it's really two separate issues.

B: I think it is, but others may not agree. Some say that tuition tax credits will give enormous benefits to the private schools

and that we're going to wind up with the public schools being just for the poor.

M: Won't we?

B: I don't think the incentive will ever be that large. I think it will somewhat benefit the private schools and will strengthen them a bit. But we can exaggerate the benefit of a $250 or $500 tax credit.

M: Well, if it's not that large, then why do it?

B: It's a break. It's a small carrot. It's surprising what a little carrot will do by the way of benefit—as evidenced by our 8 percent compared to the 92.

M: Even if the number of families who leave the public schools is small, aren't they likely to be the ones that are most interested in education and that the public schools need most?

B: I don't buy that. I have a ten-year-old boy who's a fourth-grader, and it never entered by mind that I'd send him to a private school. There are a lot of good public schools around, and there are plenty of people like myself who will still prefer to send their youngsters to public schools. I just don't think that's ever going to happen.

M: A large part of your cuts in the education budget are coming in the area of loans to college students. What sort of advice do you have for the person who may have been on the borderline of eligibility before, but who now finds that he or she no longer qualifies?

B: If there is demonstrated need, then that person will be eligible for a loan. If not, there is the Parent Loan Program, under which parents can borrow up to $2,500 a year.

M: In a lot of families, the problem is not so much lack of funds as cash flow. You might have a $50,000-a-year income, but if you have three kids in colleges that cost $10,000 a year, then you've got a problem. Even the Parent Loan won't make much of a dent in that.

B: I agree that such a person has a problem. But the federal government didn't help out before.

M: Do you expect to be the second and last secretary of education?

B: Yes. I do. The abolishment of the Department of Education was a commitment not only of President Reagan but also of the Republican party platform. When I was interviewed for the job, I frankly called attention to the fact that I'd testified in behalf of a separate Department of Education. I took this position because of the frustration I had felt when I was U.S. commissioner of education in the old Department of Health, Education and Welfare. There were problems of access to the real decisionmakers, of getting the secretary of HEW to appeal decisions and of opportunities lost because I couldn't work at the highest levels.

M: Have you changed your mind about the wisdom of having a separate department?

B: I have not changed my mind about the wisdom of getting education out of HEW, but there are other alternatives. You might have some kind of separate "agency," like NASA, or some kind of national education foundation. Or you might spread the various functions of the department among other departments. We could take the civil rights unit and put it over in Justice. I'm not advocating that, I'm just saying it's a possibility. We could take the research and the statistics section and put it under the National Science Foundation. We could take the student aid programs—the loans and the grants—and assign them to Treasury. We could take the vocational unit and stick it over in the Labor Department. Rehabilitation could be placed under Health and Hospital Services.

M: What's your preference?

B: We are presently working on a list of alternatives. My thinking at the moment is that, while it might be feasible to spread various units around existing departments, we really do need to have some kind of a federal education agency in the federal government. We need a unit, a group of employees, who are skilled and knowledgeable about American education. Keep in mind that the full-time occupation of three out of every ten people in this country is education—either as learners or as employees. That's large enough and significant enough for us to continue to have some federal agency.●

## NAW SUPPORTS PRESIDENT

### HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. JAMES K. COYNE. Mr. Speaker, during the recent district work period, I had the honor of addressing the annual meeting of the National Association of Wholesalers (NAW). This afforded me the unique opportunity to confer with a number of small- to medium-sized business owners from all over the country.

Despite the difficult economic times impacting wholesaler-distributers, I was pleased to find the industry is strongly supportive of President Reagan's economic recovery program.

Wholesale distribution represents a vital segment of the American economy. Of the 238,000 wholesaler-distributor tax returns filed in 1977 (the latest figures available), 99 percent had assets of less than $10 million; these smaller firms accounted for about 58 percent of the industry's sales volume. It is amazing to think that companies of this size are responsible for the distribution of so many of the goods that businesses and consumers rely upon on a day-to-day basis.

This industry has had to struggle for every gain it has made; skyrocketing inflation in recent years had made that struggle all the more difficult. Since roughly 80 percent of the wholesaler-distributor's assets are tied up in inventory and receivables, inflation has created unique capital formation and retention problems for this industry.

As a result, wholesaler-distributors have long been expressing concern about Federal deficit spending and the resulting credit crunch, about the inequities of the outmoded tax laws, and the regulatory and paperwork burdens presented by the Federal Government.

The wholesale-distribution industry creates a critical link in the economy which cannot and should not be overlooked. Without the wholesaling function, the flow of goods from the manufacturer to the consumer and business user would be longer and more costly. Wholesaler-distributors make goods and commodities of every description available at the place and time of need; purchase goods from producers, inventory these goods, break bulk, assemble, sell, deliver, provide technical expertise, and extend credit to retailers and industrial, commercial, institutional, governmental, and contractor business users. In short, wholesaler-distributors provide value-added services in the distribution of goods and serve to protect and enhance competition.

NAW, in its support of President Reagan's economic recovery program, has been calling upon Congress to reduce Federal spending, to restore sensibility to the regulatory process and to reform our Tax Code.

It is clear that this industry recognizes its interests are best served by contributing to an expeditious economic recovery and a rapid exorcism of inflation.

I feel confident that the support of small business concerns will help us to meet the challenge of putting the Nation's economy back on its feet.●

## IS THE PRESIDENT EVADING CONGRESSIONAL REVIEW ON UNITED STATES INVOLVEMENT IN EL SALVADOR

### HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. BARNES. Mr. Speaker, during the last 6 weeks, the United States has significantly increased its military involvement in El Salvador. On January 29, 1982, President Reagan acted under emergency authority of the Foreign Assistance Act, and provided El Salvador with an additional $55 million in military assistance. This assistance represents a more than 200 percent increase over the $26 million already authorized and appropriated for fiscal year 1982.

Though the decision to provide the $55 million was reported by the news media, there are several aspects of this action that deserve further attention by the Members of the House and by the American people.

First, President Reagan acted under the special authority of section 506 of the Foreign Assistance Act of 1961 as amended. Under this special authority, the President is authorized, in the event of an unforeseen emergency which requires immediate military assistance to a foreign country or international organization, to direct the drawdown of defense articles, defense

services, and military education and training from the Department of Defense in an amount not to exceed $75 million for any fiscal year.

According to the State Department, the unforeseen emergency in this case resulted from the need to replace the aircraft lost by the Salvadoran military in the January 27 attack by guerrillas on the Ilopango Airbase. The Department of Defense has informed me that the following Salvadoran aircraft were destroyed or severly damaged: six Ouragan ground support fighters, five C-47 transports, and six UH-1 helicopters.

In response, the United States provided the following items:

| | Million |
|---|---|
| Replace aircraft lost in Jan. 27 attack on Ilopango Airbase and enhance capability<br>8 A-37B A/C light fighter/bombers<br>4 C-123K A/C troop transports<br>12 UH-1H A/C helicopters<br>4 O-2A A/C spotter aircraft | $25.0 |
| Establish intelligence system<br>Equip intelligence school | 1.0 |
| Improve ground force capability<br>Equip two quick reaction battalions<br>Replace G-3 rifles with M-16's | 13.5 |
| Decentralize command control and enhance capability | 2.0 |
| Security and illumination systems | 1.0 |
| Support—spare parts/administrative/logistics | 7.5 |
| Training—attendant training with above equipment and materiel/combat training center | 5.0 |
| Total | 55.0 |

To even the casual observer, the United States has done more than respond to the Ilopango attack.

Second, because assistance provided under Section 506 requires no congressional approval, its use warrants careful monitoring. This exercise of the Special Authority makes the third time that El Salvador has received military aid under emergency authority. It also means that since the resumption of U.S. military assistance to El Salvador, more than 65 percent has been provided through this authority.

It is my belief that the Congress must grant the President reasonable authority to act in emergency situations when there is not sufficient time to seek congressional authorization and appropriation for assistance. However, I feel equally strong that Congress must not simply close its eyes to how these authorities are being used.

As a result of my concern over the way our involvement in El Salvador is occurring, I recently requested the Congressional Research Service to summarize the legislative history of section 506. The complete CRS report follows; I especially would like to draw my colleagues' attention to the central point. The history of the special authority reflects the degree and nature of Presidential flexibility which Congress has concluded was appropriate at various times. Most importantly, during the period between 1976 and 1979, Congress structured these authorities in a fashion which prevented their use. This was largely the result of congressional concern over the war in Southeast Asia, and in particular, a response to the use of the special authority to continue the bombing of Cambodia.

However, the restrictions were eased during the 96th Congress, and the authority once again became available to the President. Since then it has been used five times: once for Thailand, once for Liberia, and three times for El Salvador. To put it another way, since the President was again granted this flexibility in 1979, 97 percent of the funds have gone to El Salvador.

Congressional Research Service report follows:

LEGISLATIVE HISTORY OF SECTIONS 506 AND 652 OF THE FOREIGN ASSISTANCE ACT OF 1961 (SPECIAL SECURITY ASSISTANCE AUTHORITY)

This report presents the legislative history of §§ 506 and 652 of the Foreign Assistance Act of 1961, 22 U.S.C. §§ 2318, 2411. It also lists the occasions § 506 has been employed along with expended amounts. Section 506 authorizes the President to order the drawdown of defense articles to provide emergency military assistance to foreign countries and international organizations, providing he finds that there is an unforeseen emergency requiring immediate action and the emergency cannot be met by use of the Arms Export Control Act or any other provision of law. Both § 506 and § 652 require that the President notify Congress before he orders a drawdown, the latter specifying that he notify Congress in writing, including justification for and indicating of the extent of his exercise of the § 506 authority.

LEGISLATIVE HISTORY OF § 506 OF THE FAA OF 1961

Section 506 of the Foreign Assistance Act of 1961, as set forth in 22 U.S.C. § 2318, provides the following:

*"§ 2318. Special authority*

"(a) Unforeseen emergency; determination and report to Congress; limitation of defense articles, defense services, and military education and training furnished

"If the President determines and reports to the Congress in accordance with section 2411 of this title that—

"(1) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

"(2) the emergency requirement cannot be met under the authority of the Arms Export Control Act [22 U.S.C. 2751 et seq.] or any other law except this section; he may direct, for the purposes of subchapter II of this chapter, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed $75,000,000 in any fiscal year.

"(b) Notification and information to Congress of assistance furnished

"(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress.

"(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section.

(c) Authorization of appropriations for reimbursement of applicable funds

"There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section."

The provision was first enacted into law in the Foreign Assistance Act of 1961, Public Law 87-195, § 510, 75 Stat. 437, when Congress authorized the President to order supplies from existing stocks of the Defense Department and defense services to be furnished for military assistance, if he made a finding that the use of the supplies was "vital to the security of the United States." The authorization was limited to $300,000,000 per fiscal year and provided for "prompt notice of action taken" to the appropriate congressional committees. This special authority was intended "to enable the President to act promptly in situations that cannot be anticipated at the present time, situations where, in his judgment, the provision of military assistance is, in fact, vital to the security of the United States." H.R. Rep. No. 851, 87th Cong., 1st Sess. 61 (1961). The Senate, proposing a similar provision in the part of the Act designed to provide security assistance as a means of promoting international peace and security, noted that the authority was intended to enable the President "to meet contingencies that arise from the unpredictable events that occur from time to time in this uncertain and changing period of history. Indeed, this entire part reflects the need for additional flexibility in meeting increased Communist pressure." S. Rep. No. 612, 87th Cong., 1st Sess. (1961), reprinted in 1961 U.S. Code Cong. and Adm. News at 2497.

The legislation also provided that the Department of Defense was to be reimbursed from subsequent appropriations for military assistance and that the Department, in advance of such reimbursements, could incur obligations in amounts equivalent to the value of the stocks furnished to military assistance. The House Committee expressed the view that the particular type of authority granted the President in the new provision gave him "a means of meeting a military emergency with less likelihood that part or all of the . . . [authorized amount] would be drawn upon than would be the case if a dollar contingency fund for military assistance were created." H.R. Rep. No. 851, 87th Cong., 1st Sess. 61 (1961).

Amendments to get provision between 1962 and 1969 extended the President's authority for succeeding fiscal years, with the 1969 legislation doing so through fiscal year 1971. In addition, the Act of November 14, 1967, Public Law 90-137, § 201(j), 81 Stat. 457, redesignated § 510 as § 506.

In 1972 Congress extended the President's authority through fiscal year 1972, and deleted the last sentence of subsection (a), requiring notification of the House Committees on Foreign Relations, Appropriations, and Armed Services and the Speaker of the

House. Foreign Assistance Act of 1971, Public Law 92-226, §§ 201(d), 304(a)(2), 86 Stat. 25, 28. At the same time Congress moved the notification requirement to § 652 of the Foreign Assistance Act, a section then placing limitations upon additional assistance to Cambodia.

Congress in 1973 extended the President's authority through fiscal year 1974, required that the President find that the provision of assistance simply be "in the security interests" rather than "vital to the security" of the United States, and lowered the authorization by $50 million. Congress rejected an Executive request that the authority be extended without fiscal year limitation, the House Foreign Affairs Committee "convinced that this authority should be subject to annual review and approval by the Congress." H.R. Rep. No. 388, 93d Cong., 1st Sess., reprinted in [1973] U.S. Code Cong. and Ad. News at 2839. In authorizing the drawdown ceiling of $250 million, the conference committee made clear that the authority was "not to be used to supplement MAP [military assistance program] funds routinely to meet foreseen, non-emergency requirements for military assistance," and added a statement of intent that "up to $200 million of the emergency military assistance for Cambodia be furnished pursuant to" the drawdown authority. H.R. Rep. No. 664, 93d Cong., 1st Sess., reprinted in [1973] U.S. Code Cong. and Ad. News at 2885.

In 1974, Congress extended the drawdown authority through fiscal year 1975, but reduced the authorized amount by another $100 million. Foreign Assistance Act of 1974. Public Law 93-559, § 11, 88 Stat. 1798. The amended subsection read as follows:

*"§ 2318. Special authority; orders for defense articles and services; limitation; obligations in anticipation of reimbursements; authorization of appropriations.*

"(a) During the fiscal year 1975, the President may, if he determines it to be in the security interests of the United States, order defense articles from the stocks of the Department of Defense and defense services for the purposes of this subchapter, subject to subsequent reimbursement therefor from subsequent appropriations available for military assistance. The value of such orders under this subsection in the fiscal year 1975 shall not exceed $150,000,000."

In an amendment offered by Senator Pearson, the Senate had again proposed (as in 1973) to repeal § 506, as part of an attempt "to close off auxiliary sources of military assistance which annually have allowed for greater expenditures on military aid than could clearly be perceived by Congress or the American people." S. Rep. No. 1299, 93d Cong., 2d Sess., reprinted in [1974] U.S. Code Cong. and Ad News at 6681. The Senate report continued:

"The Committee has repealed this provision as a part of its overall effort to restore Congressional control over the foreign aid program and retract major grants of discretionary authority over foreign aid matters which have been given to the President in the past. If the furnishing of emergency military assistance to a foreign country is truly important to the national interest the President can come to Congress for authority, as was done in the case of Israel last year, or country allocations can be reprogrammed as necessary." Id. at 6693.

At the same time, the House proposed to extend the drawdown authority through another fiscal year with the current $250 million ceiling, but made clear that the authority was a limited one:

"Further, the committee believes that the authority under section 506(a) should be used only in emergency situations, and not to remedy perceived 'shortfall' in MAP funding which might affect such countries as Cambodia. Assurances have been received during the committee hearings from DOD spokesmen that there is no intention of providing military aid to Cambodia from the drawdown authority during fiscal 1975. The committee believes this is a wise course and should be strictly adhered to." H.R. Rep. No. 1471, 93d Cong., 1st Sess. 37 (1974).

The Senate receded in conference, but the House authorization ceiling was cut to $150 million. The conference committee also expressed its concern that the Executive branch had not yet requested an appropriation to reimburse the Department of Defense for the $250 million expended under § 506 in fiscal year 1974 for defense articles and services to Cambodia. H.R. Rep. No. 1610, 93d Cong., 2d Sess. (1974), reprinted in [1974] U.S. Code Cong. and Ad. News at 6738.

Subsection (a) was amended in 1976 to add the "unforeseen emergency" standard and to reinstate the necessity of "vital U.S. security interests" being affected, as well as requiring that the emergency could not be met under any other provisions of law. Advance notification of Congress under § 652 of the Foreign Assistance Act was also required. The amendment cut the authorization ceiling to $67.5 million and stated that the authority would be effective in any fiscal year only to the extent provided in an appropriation Act. Congress also required the President to keep that body "fully and currently" informed on the use of § 506 authority. The Senate explained its reasons for tightening the provision, after twice having its attempt to repeal the statute rejected in conference:

"Prior to 1973 section 506 required that the President find that use of the drawdown authority was 'vital' to the United States and, as a consequence, the authority had not been used for many years. In 1973 Congress amended the law to require only that the President find that providing military aid through this device was 'in the security interests of the United States,' a far less demanding criterion. This change was made for the express purpose of allowing the drawdown authority to be used to provide additional aid to Cambodia, and it was used only for that purpose during fiscal year 1974 and fiscal year 1975." S. Rept. No. 876, 94th Cong., 2d Sess. 18 (1976).

In 1979, Congress allowed the use of drawdown authority without advance appropriations in any fiscal year, placed a $10 million ceiling on the authority provided, and added grant military education and training to the items which could be provided under § 506. The House believed that "this limited authority will enable the President to meet unforeseen emergency situations requiring immediate military assistance while insuring additional assistance would be subject to congressional oversight and approval." H.R. Rep. No. 70, 96th Cong., 1st Sess. 13 (1979).

The 1979 amendment also required prior notification of the House Foreign Affairs Committee, the Senate Foreign Relations Committee and the Appropriations Committees of both Houses before the President may use his drawdown authority. In addition, while the amendment "does not mandate automatic appropriation of funds" for reimbursement of drawdowns, it does specifically authorize appropriations for such reimbursement. The conference committee rejected a Senate proposal that would have required specific authorization on a case-by-case basis. H.R. Rep. No. 495, 96th Cong., 1st Sess. 18-19 (1979).

In 1980 Congress raised the drawdown ceiling to $50 million, as the Executive branch had requested. Public Law 96-533, § 112(c), 94 Stat. 3139. The ceiling was raised to $75 million in 1981 to compensate for budget reductions in other military assistance programs. Public Law 97-113, § 110(b); S. Rep. No. 83, 97th Cong., 1st Sess. 31 (1981).

LEGISLATIVE HISTORY OF § 652 OF THE FOREIGN ASSISTANCE ACT OF 1961

Section 652 of the Foreign Assistance Act of 1961, 22 U.S.C. § 2411, limits the special security assistance authorities provided the President in §§ 506(a) and 610(a) of the Act (the latter dealing with the transfer of funds between accounts), by requiring prior notification of Congress. The provision currently states:

"Sec. 652. Limitation Upon Exercise of Special Authorities.—The President shall not exercise any special authority granted to him under section 506(a) or 610(a) of this Act unless the President, prior to the date he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority."

The provision was first enacted as part of 1971 supplemental foreign assistance authorization legislation, Public Law 87-195, 91-652, § 8, 84 Stat. 1943, providing for a limitation on additional assistance to Cambodia. As explained by the Senate Foreign Relations Committee:

"The purpose of section 7 is to insure that the Congress has an opportunity to pass on any executive branch proposal to increase aid for Cambodia above the amounts justified to the Congress. Through use of the emergency provisions of the Foreign Assistance Act, the President has already given Cambodia nearly $100 million in military aid so far during 1970 and plans to give her $10 million more shortly, all without specific authorization by Congress. The law requires only that Congress be informed after the fact, not before. The President has given this military aid to Cambodia by, in effect, borrowing funds from other economic and military aid programs which had previously been justified to the Congress. Under this same authority, additional funds could be furnished to Cambodia later in this fiscal year, without further congressional action, if the President chooses. The situation in Cambodia is so perilous that special precautions are needed to temper the broad discretion allowed under the Foreign Assistance Act.

"The section would require that the President give the Congress 30 days advance notice before he could use the authority of sections 506(a), 610(a), or 614(a) to increase the aid program for Cambodia. This period will give Congress sufficient time to act, if it wishes to do so. However, if the President certifies that an emergency exists requiring immediate additional aid for Cambodia only 10 days prior notice of his intention to act would be required.

"The committee believes that the restriction will give the Congress a more effective

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voice in determining future aid levels for Cambodia." S. Rep. No. 1437, 91st Cong., 1st Sess. 10 (1970).

In 1972 the provision was revised to delete the portions limiting the exercise of special authority to providing additional assistance to Cambodia and requiring thirty days' notice to congressional committees (ten days in emergencies requiring immediate assistance) of intention to exercise such authority. Public Law 92-226, § 304(a)(1), 86 Stat. 28. In explaining its proposal, the Senate Foreign Relations Committee related its concerns about the need for advance notification of use of Foreign Assistance Act funds in special circumstances:

"Sections 610(a) and 614(a) of the Foreign Assistance Act comprise the President's primary authority to transfer funds from one program to another and to waive restrictions imposed by the Act. Under the authority of these two sections Cambodia was allotted $110 million in foreign aid last year without specific authorization by Congress. Section 506(a) authorizes the President to draw on Department of Defense stocks with subsequent reimbursement to be made out of appropriations for military assistance.

"During fiscal year 1971 and thus far in fiscal year 1972, sections 610(a) or 614(a) served as a basis, in part or in whole, for at least 17 Presidential waivers. In none of these cases (or in any of the others in which the President relied on addition waiver authority) was the Congress notified before the President acted. In fact, in many of these cases the President waited a month before notifying the Congress of any action at all.

"Some of these actions, such as those concerning Cambodia, involved transfers of millions of dollars and raised a number of critical foreign policy issues.

"This amendment simply requires that, before the President exercises the authority in sections 506(a), 610(a) or 614(a), he must give ten days prior notice in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate." S. Rep. No. 431, 92d Cong., 2d Sess. (1972), reprinted in [1972] U.S. Code Cong. and Ad. News at 1894-95.

The provision was amended in conference to strike out the ten-day notice provision, requiring only advance notification. At the same time the conferees stated their understanding that "while not specifying the number of days, the advance notice should not just be immediately contemporaneous with the use of these authorities." S. Rep. No. 590, 92d Cong., 2d Sess. (1972), reprinted in [1972] U.S. Code Cong, and Ad. News at 1946.

The most recent amendment to this provision deleted the reference to § 614(a), making the notification requirement a part of § 614 itself. Public Law 96-533, § 117(b), 94 Stat. 3141 (1980).

USE OF SECTION 506 AUTHORITY

The President has employed § 506 on at least eight occasions since the provision was enacted in 1961. For each instance, the year, country assisted, amount expended, and source of information are listed:

(1) Fiscal year 1965—Vietnam—appears to be $75 million (Foreign Assistance and Related Agencies Appropriations for 1966: Hearings Before the House Comm. on Appropriations, 89th Cong., 1st Sess. 235, 236 (1965); Foreign Assistance and Related Agencies Appropriations for 1967: Hearings Before the House Comm. on Appropriations, 89th Cong., 2d Sess. 510, 541 (1966) (authority appears to have been employed twice during the same fiscal year)).

(2) Fiscal year 1974—Cambodia—$250 million (S. Rep. No. 1299, 93d Cong., 2d Sess. (1974)).

(3) Fiscal year 1975—Cambodia—$75 million (Foreign Assistance and Related Agencies Appropriations for 1975: Hearings Before the House Comm. on Appropriations, 94th Sess. 7 (1975); S. Rep. No. 876, 94th Cong., 2d Sess. 18 (1976)).

(4) Fiscal year 1980—Thailand—$1.1 million (§ 506(a) notification filed with House Committee on Foreign Affairs).

(5) December 1980—Liberia—$1 million (§ 506(a) notification).

(6) January 1981—El Salvador—$5 million (§ 506(a) notification).

(7) March 1981—El Salvador—$20 million (§ 506(a) notification).

(8) February 1982—El Salvador—$55 million (§ 506(a) notification).●

## MARKETING ORDERS

### HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. PASHAYAN. Mr. Speaker, a great deal of misinformation has been printed in recent weeks and months regarding the Federal marketing order system and, regrettably, many critics have lost the historic sense and laudable goals of the Agricultural Marketing Agreement Act of 1937.

Last month Consumer Reports offered its views on marketing orders, and Mr. Robert N. Hampton, vice president for marketing and international trade, National Council of Farmer Cooperatives, rebutted those comments in a letter to the editor of the magazine.

The National Council of Farmer Cooperatives has, in my view, presented an often-overlooked argument on the benefits provided the consumer by marketing orders, and I should like to take this opportunity to share those views with my colleagues.

NATIONAL COUNCIL OF
FARMER COOPERATIVES,
*Washington, D.C. February 22, 1982.*

IRWIN LANDAU,
*Editor, Consumer Reports, Washington Street, Mount Vernon, N.Y.*

DEAR MR. LANDAU: Your February 1982 article, "What's a Marketing Order?" correctly noted that the Secretary of Agriculture, who is legally charged with representing long-term consumers' interests, must approve every action of marketing order committees. However, you failed to follow up and explore in depth this most critical aspect of these programs—namely, their role in assuring American consumers of a reliable, high-quality, relatively inexpensive source of food over a long period of time.

Congress enacted the Agricultural Marketing Agreement Act of 1937 with just that purpose in mind. Protecting farmers against the wild, extreme price fluctuations which are so unique to agriculture has been consistently viewed by Congress as the best means of maintaining the small business, so-called "family farm", operation which has provided our nation with the world's most generous, dependable and least costly sources of food.

The urgent need for governmental steps to help farmers achieve more orderly markets and more stable prices, in the U.S. as in all the world's industrial nations, grows out of the little-understood nature of the food production-marketing system. Volume of output cannot be controlled by the farmer, as in industrial factories, not only because of highly variable weather but also because in the American system hundreds of thousands of production decisions are made by independent farmers in a fashion which is essentially uncoordinated if government assumes no role.

But the central problem which results from unpredictable food output arises from the fact that, beyond a certain level, people have little need, or "demand", for additional food. As a result, even a modest "oversupply" causes a sharp drop in price for the farmers' product. In a totally unrestricted market, the farmer who grows 20 percent more than normal, in a year when total supply is also 20 percent above the normal market need, usually finds his gross return decreased by as much as 20 percent (sometimes more)—an ironic negative reward for his good performance and his contribution to the national welfare.

Any comparison of farmers' incomes with others who contribute as much effort, capital investment, managerial talent and high risk, has long demonstrated that most farmers are substantially under-compensated in terms of monetary benefits. In many instances, farmers' rewards come largely from their sense of independence, dedication to the land and the satisfaction of being a part of nature's most elemental processes. Many farmers have little margin of profit to withstand the instability which arises from a totally "free" market environment. The challenge our government has faced for decades is to develop balanced programs which will give farmers some limited protection against such disasters not of their own making, while striving to maintain the tremendous productive benefits which result from our market-oriented system of strong individual incentives and independence.

The proper balance between unrestricted freedom for our food producers and the type and amount of government involvement which is necessary to maintain our system by protecting farmers from economic disaster is difficult to achieve—and is eternally changing. Many different programs have been developed, adjusted, sometimes discarded, for different commodities and at different times and places. The "farm problem", like other economic dilemmas, is always with us.

Marketing orders, which are a central element of government's tools to bring a desirable measure of market stability in order to assist dairy, fruit, vegetable and other specialty crop producers, have a long record of serving the public as well as farmers' interests. Your statement that the public interest is not represented in the design and administration of marketing orders is not correct. The U.S. Department of Agriculture has been clearly charged since the time of President Lincoln with representing the public as well as farmers' interests. Indeed, many farmers in recent years have expressed increasing concern that USDA sometimes has such strong concern for consumer issues that it fails to give due weight to farmers' needs.

Your statement that USDA does not exercise close scrutiny over marketing orders is also incorrect. In fact, the long and careful investigations which USDA normally carries out prior to approving special programs under these orders often cause delays which are very costly to the industry involved. As an example, because of the many months of USDA study which preceded approval of the marketing order reserve program for almonds, the farmer-owned California Almond Growers cooperative was unable to make commitments for substantial foreign market opportunities and suffered heavy financial losses as a consequence. Any implications that USDA approval is "automatic" is also incorrect. In your article, you in fact acknowledge the typically careful and thorough approach made by USDA in spending some 500 hours investigating charges that provisions of the citrus marketing order had been violated.

It is indeed a fact that marketing orders programs of "set-aside" or "flow-to-market" do keep prices up in the short run. Neither the public critics nor the researchers who have recently studied various orders in depth have shown that "undue price enhancement" has occurred over the long run. In fact, continuity of adequate supplies, at reasonable prices (food price increases in recent inflationary years are largely attributable to escalating costs of energy, labor and other production inputs) has been a remarkable accomplishment of our dairy and our fruit and vegetable sectors over the years.

Finally, the need for farmers to work together through their cooperatives and their marketing orders is as urgent today as in former years when production units were even smaller. Most of our food output comes from farmers who are still very small compared to buyers and sellers with whom they do business. Without self-help programs such as marketing orders and cooperatives, farmers are as much at the mercy of the market and the vagaries of nature as they were 45 years ago when the Agricultural Marketing Agreement Act of 1937 became law. These programs do not have the damaging effects of "monopolization", "price-fixing", or "legalized cartels", as you have indicated. Studies of the price history of products under marketing orders have repeatedly shown this to be true. That's quite understandable inasmuch as an individual food product can be easily substituted for, in case the price to the consumer gets out of line.

Congress has consistently recognized these long-term benefits to consumers. That has always been a central objective of the program. Only the natural human tendency of some shoppers to look only at the short term, plus distorted reports of how surplus products are disposed of, has created some misconceptions on the part of unsophisticated or biased interests. We're fortunate in the U.S. to be dealing with problems of surplus rather than scarcity. Failure to understand what enables the system to work efficiently could lead to an end to this abundance which we Americans take for granted.

Sincerely,

ROBERT N. HAMPTON,
*Vice President,*
*Marketing and International Trade.*●

## ONE OF EVERY SIX WORKERS IN MICHIGAN UNEMPLOYED

### HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. PURSELL. Mr. Speaker, I would like my colleagues to take a moment and imagine a situation where every man, woman, and child in our Nation's Capital were unable to find a job—over 630,000 people without employment. Needless to say, such a condition would be an untolerable tragedy. Yet, that is precisely the case in the State of Michigan today.

The January statistics show 677,000 Michigan residents or 16 percent of the work force unemployed—1 of every 6 workers. This is almost double the national average and 1.6 percent above December. Other Midwest States, including Ohio and Indiana, are experiencing double-digit unemployment rates. Those States, with heavy dependence on the automobile industry are particularly hard hit.

Although my region is suffering more than other areas, this situation, of course, is not simply parochial, but a very serious national probelm. Accordingly, I have asked President Reagan to establish a task force on unemployment in the Midwest. It is my hope to bring together leaders from the local, State, and Federal levels, with a balanced mix of business, labor, education, and public officials to help establish meaningful priorities to deal with our problems as promptly and effectively as possible.

The economic consequences and human suffering resulting from the employment situation in our area has produced a level of frustration recently demonstrated in a full-page message to the President that appeared in the Ypsilanti Press—a newspaper in my district. It included an open letter by Joe Matasich, the paper's editor, accompanied by a number of comments from people interviewed by the Press while they stood in line at an unemployment office. I would like to share those comments with you and ask that you consider seriously not just the words spoken, but the concerns and feelings behind them:

[From the Ypsilanti Press, Sun., Feb. 14, 1982]

LETTER TO THE PRESIDENT—WE'RE HURTIN' IN YPSILANTI

Dear Mr. President,

This open letter is written on behalf of people of the Ypsilanti, Mi., area—people who this past week read stories in the Ypsilanti Press about your proposed budget cuts and telling critics to "put up or shut up."

I wish we could chuckle at your one-liners, but honestly, the only one line we know is the one that gets longer each week at the unemployment office (see above).

The Ypsilanti area, with 11.5 percent jobless, is an economically devastated blue-collar community in a state that has 16 percent unemployment, almost double the national rate of 8.5.

Our area is taking such a pounding that in some sectors we will never recover. We'll never get back hundreds who love this area but had to leave because there are no jobs.

We understand that you wish to cut back inflation so that we can experience an economic comeback next year. Thousands will not be able to hang on that long.

The auto industry, our lifeline, has 10,647 workers on indefinite layoff, a drop from 30,350 in 1979 to the current level of 19,703.

People without jobs, even if they are receiving some subsistence, aren't buying goods. And that's why auto dealers, mobile home dealers, real estate offices, chain clothiers and furniture stores have shut their doors. In two weeks a major supermarket chain closed six of its area stores and threw more skilled people into the jobless pit. This once vital and thriving area now has a regular bread and soup night at the Salvation Army hall, conveniently located a stone's throw from the Michigan Employment Security Office where 5,000 claims are processed a week.

There's a human side of the budget ledger, too. It's called people—live human beings who suffer real pain from social service cutbacks and who cannot cope from prolonged high unemployment. You blame all of the mess on the previous administration, but we remind you that our area joblessness hit a 6-year high in December 1981, the highest since August, 1975 when a man named Ford occupied your house.

We've been experiencing a rough winter, weatherwise. But we'd bet our last unemployment check that spring will come shortly.

We wouldn't bet a dime that, if we suffer for another year or so, things will get better, as you predict.

We've tried to paint you a picture on how hellish it is here in the Ypsilanti area.

To help make the picture even clearer, we've added the thoughts of scores of area persons who are experiencing the terrible times firsthand.

They were interviewed in zero temperatures while standing in that long line (as shown above) to get their jobless check, the last for many of them.

JOE MATASICH,
*Editor, Ypsilanti Press.*

Fred Harbertz, 23, currently employed as a security guard: "I think he's making the cuts in the wrong areas. His budget cuts are mostly for rich people instead of the poor."

Donald Clay, 24, laid off from Ford Rouge Plant since October: "I feel it's hurting working class. If you're not into big business, then you're hurt."

Kareem Swidan, 19, laid off as a gas station attendant since early January: "I think (the cuts are) pretty bad. He's cutting off benefits for people who really need the money and he don't need to give money to the rich people. The big man is making it today. He's more concerned about foreign affairs than his own country's affairs. He should take care of his people and then take care of other people."

Paul Wisniewski, 24, whose wife is expecting their first child, was laid off as a grocery store cashier in January: "I'm disappointed the way everything is because of what's happening. I worked for the A&P and I'm out of a job. My wife's pregnant, my insurance won't cover us any more . . . so that

alone tells you how it's going. It's the worst it's ever been. I've worked ever since I was 11 and now this happens, when I'm 24 and supposed to be a supporting, responsible citizen."

Robert Markgraff, 25, laid off as a spring manufacturing plant employee since November: "I don't think it's going to work. It seems like he's cutting programs to help people who are laid off and on welfare and it seems like he's just cutting it from one place and putting it back into defense. Sooner or later we aren't going to have any jobs unless we go into the military. That's where the jobs are at."

Ralph Kyle, 42, father of three and a sheet metal worker laid off since Monday: "I think it stinks. I just don't like the way he's running things."

Freda Hobbs, 20, a GMAD cafeteria worker unemployed since November: "I don't think the budget will work. It's just so bad now I don't think anybody's going to be able to do anything."

Joseph C. Brooks, 50, father of three, laid off from Ford Transmission at Livonia two weeks ago: "I don't think he's doing a good job as president. He's letting this country down."

Carrie Weaver, 35, unemployed as a secretary since Jan. 22: "I really don't think (the cuts are) doing very much. (The cuts are) not doing what (they're) supposed to do."

Jim Smith, 25, father of one and his wife is expecting a second child, laid off from Spiffy carpet since November: "I think it's screwed. This is the worst state there is. I especially don't like more cutbacks in welfare and Social Security."

Kathleen Wolfe, 44, laid off from the Washtenaw County Health Department one year ago: "I don't think much of it. It's going to run Michigan into deeper debt. I don't think we can afford it."

Mike Jared, 22, father of one and his wife is expecting a second child, laid off from GMAD since January: "I don't think he ought to be cutting welfare for people who need it, or for old folks. Why do they call it Social Security? If they keep chopping it, then you don't have no security. My mom worries about it (Social Security cuts) all the time, that's no security."

Cheryl Jeske, 22, unemployed since January after losing a job as a shoe store clerk: "Because of unemployment around here, it (budget) doesn't help. People have to have welfare. They really need it."

Hilary Ellert, 22, laid off from South Coast Technology since January: "I wish he would cut defense spending instead of social services."

Dan Christy, 25, father of two, laid off from the Crystal House Motel since December: "I'm really concerned about domestic policy. I'm unemployed, and my student loans have run out. I'm two classes short of my degree, but don't have enough money to finish. It's really hurting me."

Wayne Justice, 35, father of one, laid off from GMAD since January: "I don't like it. We voted him in, and things have got a lot worse."

James Booker, 25, whose wife is also unemployed, laid off from the Michigan Employment Securities Commission for one week: "I think it stinks. He's more concerned with the man whose income is above $50,000 a year, not with the man on the bottom."

John O'Dell, 26, laid off from Ford Rawsonville since December: "You gotta start somewhere, but I'm not thrilled with his ideas. Some of the cuts seem pretty drastic, but he's making an effort."

Reginald Adams, 23, a seasonal worker who was laid off in October: "It seems like it's worst for the autoworkers, losing all their benefits and everything."

Willie Curts, 27, father of two, laid off from Motor Wheel since November: "I think it stinks. There's so much unemployment now. He's really cutting down on poor people. Poor people are really getting it."

Pat McGowan, 41, father of two, laid off from a construction job since December: "It's not the way to get people back to work. You've got to get money back into circulation. He's trying to keep the little man down, so he doesn't get too far ahead.

Frank Lozie, 20, laid off from seasonal work since December: "If he cuts off benefits for the elderly, that's not right. But there are able-bodied people taking advantage too. But if you don't give a person a chance to develop skills, how do you expect him to get a job?"

Flo Ferri, 33, mother of two, officially an under-employed worker who now gets about eight hours a week at Canteen Corp.'s Hydra-matic location: "It's really getting bad out there. I don't know how much more he can cut things."

Dave Crippen, 36, father of five, laid off from Hydra-matic since July: "I don't know if its going to do any good or not. A lot of us are going broke while he's trying to straighten things out."

Evelyn McLean, 61, who is giving financial assistance to two children in college, laid off from seasonal work: "I think it's more for the rich than for the poor. Rich are getting richer, and poor are getting poorer. I voted for Reagan, but it seems like he doesn't realize the full extent of how the poor are getting depressed and need help bad."

Bob Cross, 41, father of two, laid off from Washtenaw County since July: "His priorities are all wrong. Cuts should be made in defense instead of social services."

Kerry Williams, 43, father of two, laid off from Ford Rawsonville since November: "Everything he does is backwards. That's all I've got to say."

Terry Carllington, 28, laid off from a construction job since November: "I'm for it. I say it's time for our generation to have a war. I'm serious. Our fathers went through it. It's the only thing that'll pull us out. That's what they're (Reagan and other national leaders) are working for anyway."

David Sanders, 26, father of two, currently employed in a white collar job at Hydramatic: "I don't mind the cuts. But if we're going to have a $90 billion deficit, we should have cuts in the military."

Joe Vargas, 32, father of three who has not worked a construction job since December: "I guess everybody's answer's the same. I think if the cuts continue, unemployment will continue to get worse than it is now. He's just continuing to irritate people."

Joe Chavis, 56, whose wife is hospitalized, laid off from Willow Run Schools since November: "I think it's screwy. He's taking everything away from schools and poor people. The only people he's helping are the rich."

Diana Kennedy, 26, laid off sporadically from Jac Products: "I'm poor, and he ain't helping me. I'm unemployed because of his Reaganomics. Thank you, Mr. Reagan."

Frank Hosmer, 26, whose wife is also unemployed, laid off from Wayne Assembly since January: "I think he's full of it."

Mark Byars, 26, a mechanic out of work for two years: "There's a lot of people cut down I feel. If he just stopped welfare—it's going to be tighter than it is now. Time is coming to an end. I feel he shouldn't cut like he has."

Arranis Schoffner, 20, a janitorial service employee laid off three months ago: "I think he's cutting too much and spending too much on defense."

James Wilson, 27, a truck driver out of full-time work for 1½ years: "I think (the budget) sucks. The cuts are definitely misaimed. They're all in the wrong place. I heard he was hiring back some people to open MESC offices—that's just a token gesture."

Steve Dornhos, 22, father of one, laid off for three months from GMAD plant: "I don't like (the budget cuts). I feel he's spending too much on defense and not enough people (are) making the money. There's too many people in Michigan out of work and the money he's spending on defenses ain't doing us any good."

James Johnson, 28, father of one and an apartment painter and auto repairman laid off since January: "I think it's really bad that he's cutting out from the people who can't get a job and the people who have jobs and making dollars are working. People being laid off—where are they going to get work? My thing was auto body repair and I can't get a thing in the shops, they're all empty. For people who don't really make all the big dollars you're just in a hole, there's no way to get out."

Craig Jackson, 28, father of three, laid off as a computer technician and telecommunications expert since November 10: "I think it's done too fast, what has been done. The public should have been able to say what should be cut, how much and when. They should have voted on what should have been cut. America is supposed to be based on . . . not having to pay a great amount of taxes. It's almost like back when we were paying England . . . It they're spending money to make (the budget) work, they should have done it before. The way he's doing it isn't right."

Charlene Norris, 27, mother of one and an unemployed Ford Motor Co. cafeteria worker laid off two weeks ago: "I think (the budget cuts) stink. I think it hurts the people who work and collect food stamps and try to make it, because it really hurts them when people who aren't working at all are making more than people who are working."

Jan McCall, 29, currently employed at the local MESC office: "I'm not at liberty to say what I would like to say. He should take out his economics textbook and read it thoroughly and take into consideration the historical events that have taken place since the early 1900s. Most politicians need to reconsider the status of the U.S. now."

Patricia Curtis, 26, mother of two and since Sept. 9 an unemployed microfilm operator: "(Budget cuts) definitely have affected black minorities and it's going to be awful difficult, I feel, to do budget cuts at all, especially the Department of Social Services and (services) to the unemployed, the poor and senior citizens. I feel like they are being hurt the worst. I look at surveys daily and see 17.4 percent that are unemployed that are black and it was only 8.5 percent white. Something should be rectified."

## PLIGHT OF BENJAMIN LIVSHITZ

### HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DAUB. Mr. Speaker, last July, I called to the attention of the Members of the House the plight of Benjamin Livshitz, a refusenik in the Soviet Union. Today, I am compelled to once more voice my concern for the fate of Mr. Livshitz.

Since 1971, Mr. Livshitz and his wife have been denied the right to emigrate to Israel. These repeated denials by the Soviet Government are based on the excuse of Mr. Livshitz' access in 1948 to sensitive material, as a colonel in the Soviet military.

And Benjamin Livshitz is not alone. More Jewish activists have been persecuted in the past year in the Soviet Union than during the last several years combined. We must let Soviet leaders know that we deplore this deprivation of basic human rights, and seek to put an end to these persecutions.

Mr. Speaker, I am sure that all Members would like to join me in imploring that Mr. and Mrs. Livshitz be given their freedom, along with other Soviet Jews.●

## HUMAN RIGHTS IN NICARAGUA

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. McDONALD. Mr. Speaker, the subject of human rights in Central America has focused primarily on the pro-American Governments of El Salvador and Guatemala. The media along with Reagan administration critics emphasize abuses in war-torn El Salvador, yet ignore such excesses in Cuba and Nicaragua. The distinguished chairman of the Senate Foreign Relations' Subcommittee on Western Hemisphere Affairs, Mr. HELMS, is attempting to rectify this onesided analysis of the situation through open hearings providing a platform for all points of view. On March 1, Ambassador Jeane Kirkpatrick, our respected permanent representative to the United Nations, lucidly outlined the human rights situation in Nicaragua before Senator Helms' subcommittee. I commend her statement to my colleagues:

STATEMENT BY AMBASSADOR JEANE J. KIRKPATRICK, U.S. PERMANENT REPRESENTATIVE TO THE UNITED NATIONS

Mr. Chairman, as always, it is an honor as well as a duty to respond to an invitation to testify before a committee of the Congress. The Congress' role in making and overseeing American foreign policy is, and I have always believed should be, exceedingly important.

I have been asked to discuss today the extent to which the practices of the government of Nicaragua do and do not respect the human rights of Nicaragua's citizens. Such a discussion requires a minimal understanding of what human rights a government may be reasonably expected to respect as well as reliable and accurate knowledge of a government's policies and practices.

Mr. Chairman, I have argued elsewhere that rights should not be confused with wishes, or goals, that the list of human rights cannot be indefinitely lengthened like a shopping list in a global super market. I believe such political and legal rights such as free speech, press, religion, freedom of assembly, freedom from arbitrary arrest, and the right to due process are the fundamental rights: they are the prerequisites to other social and economic goods. These basic political and legal rights share several important characteristics. Above all, they depend on restraint in the use of power. To observe the rule of law, to permit citizens to meet together and speak freely, it is not necessary that an economy be industrialized, a standard of living high; a people literate, or urban. It is only necessary that this government not use its coercive power to ban newspapers, break up meetings, arrest opponents. Governments, we should be clear, do not—and should not—control all kinds of power in a society. They cannot, therefore, be held responsible for all the ways power is exercised. But governments are responsible for their own decisions and policies. It is not reasonable therefore to hold a government responsible for the level of industrialization, the rate of economic growth or productivity in a society—(unless, of course, the government has claimed the exclusive right to manage the economy). It is entirely reasonable to hold a government responsible for its own decisions concerning arrest, trial, detention; for its own policies concerning elections and opposition; for its own practices vis-a-vis other sectors of the society.

Unfortunately, for the people of Nicaragua the policies and practices of that government demonstrate a pattern of systematic repression which began soon after the Sandinista triumph in July, 1979 and has intensified with the progressive consolidation of power by Nicaragua's one-party dictatorship.

This is neither the time nor place to review the events and policies that culminated in July, 1979 in the defeat and resignation of Anastasio Somoza, the collapse, soon thereafter of the transitional government headed by President Urcuyo, and the accession to power of the Sandinista Directorate—though I believe there remain important lessons to be learned from these events. We are concerned here with the consequences of Sandinista rule for the freedom, security and well being of Nicaraguans.

In the past two and one half years, Nicaraguan's hopes for greater freedom, democracy and security from government tyranny have very nearly died as the new rulers moved expertly first to establish and then, progressively, to exercise control over the various sectors and institutions of Nicaraguan society. The pattern is familiar to all students of total power. The revolution has been conducted according to plan. The extension and consolidation of power follows the pattern of "coup d'etat by installments" (Konrad Heiden's description of the Nazi seizure of near total power of German society).

One step at a time the Sandinista directorate moved against the faint hearted "bourgeois" democrats in their ranks, Robelo, Chomorro, Pastora, Cruz, waiting while they resigned in frustration and disappointment. One sector at a time they have moved against Nicaraguan society—now seizing radio, television stations, newspapers, now nationalizing new industries, now tightening control of the economy, now moving against the independent trade union, now banning a bishop from access to television, now organizing and reinforcing the Sandinista Defense Committees that bring the revolution, with rewards, demands, and surveillance into every neighborhood.

Along side it all came a dramatic, extraordinary expansion of Nicaragua's army, National Guard and international role. Today's National Guard is many times the size and strength of the one that reinforced Somoza's regime. It reinforces a political machine many times more sophisticated than Somoza's.

A political scientist describing the Nazi's consolidation of power in a single German town noted, concerning that process of destruction of society and politicization of human relations:

"Hardly anyone in Thalburg in those days grasped what was happening. There was no real comprehension of what the town would experience if Hitler came to power, no real understanding of what Naziism was." (p. 281, William Sheridan Allen, "The Nazi Seizure of Power: The Experience of a Single German Town")

It is no easier to understand what is happening to Nicaragua.

Mr. Chairman, there are serious obstacles to a clear assessment of the practices relevant to human rights in Nicaragua. We are confronted in Nicaragua with the familiar patterns of doublespeak with which would-be totalitarian rulers of our times assault reality in the attempt to persuade us; and doubtless, themselves, that making war is seeking peace; that repression is liberation; that a free press is a carefully controlled one. Thus on February 19, 1982 Daniel Ortega solemnly assured the opening session of an international conference (COPPAL) that the forced transfer and violence of Miskito Indians was naturally carried out only to protect their human rights.

"We have had to transfer them from the Rio Coco River banks, on the border of Honduras, to our country's interior investing efforts and resources that cost blood to the Nicaraguan people. True, there have been some dead in the north, in Nicaragua's Atlantic zone."

"We have had to resort to drastic measures to protect the rights of those Nicaraguans."

The world misunderstood the systematic destruction of the homes, villages and economies of the Miskito Indians. The government was only protecting them against counterrevolutionaries. Furthermore, Radio Sandino explained (15 February, 1982):

"Those communities located on the banks of the Coco River lived in neglected conditions since it is pratically impossible to build roads in the area due to the swampy land. Also the soil is not very fertile for agriculture and cattle raising. The situation is worsened by the constant floods which produce very low crop yields that are not even enough for the communities subsist-

ence. As a result of this situation, all the advantages that they can now be given in the new settlements could not be offered to them."

Freedom from floods, freedom from bad soil and low crop yields, freedom from counterrevolutionaries, freedom from responsibility for their own lives, these are the human rights cited by Nicaragua's government to justify their claims to decide by force where the Miskitos should live, when they move, in what language their children should be educated, which dangers they should confront.

Thus the dialectic of revolution unfolds: liberation has already produced its antithesis in Sandinista Nicaragua. Old familiar arguments are invoked to justify new more effective repressions.

Interior Minister Tomas Borge made a very long speech recently (January 27) attacking the only newspaper in Nicaragua which is not yet wholly controlled by the government. Borge's speech provides a useful compendium of contemporary version of classic arguments against a free press:

First, he postulates a struggle and invokes foreign enemies against whom it is necessary to struggle. Then Borge identifies the "most important instrument of all enemies of Nicaragua and the revolution: the newspaper: La Prensa." The offending newspaper is thus defined not as an expression of Nicaraguan opinion but of the enemies of Nicaragua.

Second, Borge explains that even though La Prensa undeniably is the most widely read newspaper in Nicaragua its "circulation is not a demonstration of the people's support." "The fact that people buy cigaretts doesn't mean that cigarettes are good for their health . . ." "That they buy drugs does not mean drugs are good." The appeal of La Prensa, he argues, is like that of pornography—"political pornography."

Still, La Prensa functions. Its voice, which daily condemned the arbitrary use of power by the Somozistas, remains the symbol of independence and continuing hope for a democratic Nicaragua. But the campaign of intimidation is unremitting: government edicts, divine mobs, repeatedly forced temporary suspensions—on July 10, July 29, August 20 and intermittently through the fall. On January 13, 1982 combined actions of the military and the divine mobs closed La Prensa for three days after editional offices were attacked and the homes of its editors, Pedro Joaquin Chomorro and Jaime Chomorro Barrios, were defaced.

By 1981, the foundation of Sandinista control over the symbolic environment had been established. The government controlled radio, television and newspapers other than La Prensa. Moreover, laws were in place making it a crime to criticize the government without its authorization, to organize or promote candidacies for the elections which had, by now, been "postponed" until 1985.

Nineteen eighty-one marked new levels of oppression in other spheres as well. Intimidation and control of the economy was extended, various private sector leaders were arrested, deported or imprisoned culminating in October in the sentencing of three chief private sector leaders guilty of criticizing the government's management of the economy. Proving they were hostile to all institutions autonomous of the state, the Sandinistas moved against labor as well as business, fiercely attacking Nicaragua's independent trade union movement (CUS) which responded by also withdrawing from the Council of State.

The most important development in repression against the various sectors of Nicaraguan society in 1981 was the progressive reliance on vigilante mobs to intimidate and punish persons and institutions who resisted conforming to the new orthodoxy. The MDN and the Social Democrats, two of Nicaragua's principal opposition parties repeatedly were the victims of semi-official mob violence. MDN leader Alfonso Robelo's home was also attacked by the citizen groups who could count on understanding and support from the government.

Concentrating on new human and institutional targets did not mean Nicaragua's revolutionary government had lost interest in its old adversaries. No one knows the precise number of Somoza's National Guardsmen who still languish in Nicaragua's prisons. Five thousand is a conservative estimate of former National Guardsmen who, convicted by special tribunals, remain in prison. Many observers believe closer to 14,000 Somocistas remain in Nicaragua's overcrowded, underfed prisons.

When in September, the government declared a one year state of social and economic emergency and declared a number of broadly defined acts to be crimes, the government's power for moving "legally" against its critics was greatly expended.

By the end of 1981, Nicaragua's one party dictatorship had both expanded and consolidated power over diverse sectors of Nicaraguan life. Totalitarian control had not yet been established but the process of eliminating and intimidating opponents was far advanced. So was the parallel establishment of new institutions that could penetrate and saturate the society with the teachings of the revolution.

The most dramatic and violent manifestation of the Sandinista effort to eliminate diversity, eradicate autonomous social groups and bring the whole society under central control was the campaign against the people, the institutions and the communities of the Miskito, Sumo and Rama Indians of Nicaragua's Atlantic Coast. The first moves against these largely autonomous, self-governing Indian communities took place in July, 1979, when an effort was made to replace the 256 Council of Elders with Sandinista Defense Committees. Prohibition of lumbering, a major economic activity, arrest of a Miskito leader, expropriation of Indian lands, the imposition of Spanish in schools and various other initiatives against the cultural and economic survival of the Coastal Indians followed. All this proved to be a preface, however.

In the last months the Nicaraguan government has carried out a campaign of systematic violence against the Miskito Indians, burning their villages, destroying their institutions, forcing their evacuation and resettlement, killing those who resist, driving thousands into exile in Honduras. Of this campaign, Freedom House declared, "circumstantial evidence clearly suggests that the central government has embarked on a policy to eradicate the indigenous peoples of the coastal area."

The Indian communities against whom these brutal measures have been directed have a long history of peaceful, cordial relations with Nicaragua's previous governments, who granted them semi-autonomous status—that is, the right to preserve their way of life in their own communities.

The Sandinistas' violent offensive not only spelled tragedy for the Miskitos. It also symbolized the Sandinistas' hostility to any group which showed a capacity and a determination to resist the transformation and incorporation into the all new revolutionary society, culture, economy and state.

Sandinista efforts to justify their policy as good for the Indians constitutes a forceful contemporary reminder of the human costs of revolutionary elites ready to sacrifice untold thousands (millions) of men, women and children to a fantasy concerning what is good for mankind.

In a statement of February 18, 1982, Nicaragua's Bishops have graphically described the tragedy of the Atlantic Coast Indians. Their statement provides a succinct, moving commentary of this massive violation of human rights:

Our thoughts on these events:

We recognize the governing authorities right to undertake necessary measures to guarantee the defense and the integrity of the territory of the nation. We also recognize the autonomy of the state and it's right to determine the implementation of emergency military measures in all or part of national territory in order to defend the country. Nevertheless, we wish to remind everyone that there are inalienable rights that under no circumstances can be violated and we must state, with painful surprise, that in certain concrete cases there have been grave violations of the human rights of individuals, families, and entire populations of peoples. These include:

Relocations of individuals by military operations without warning and without conscientious dialogue,

Forced marches, carried out without sufficient consideration for the weak, aged, women and children,

Charges or accusations of collaboration with the counterrevolution against all residents of certain towns,

The destruction of houses, belongings and domestic animals, and

The deaths of individuals in circumstances that, to our great sorrow, remind us of the drama of other peoples of the region.

Such are the facts that compel us to denounce vigorously such attitudes of those who have the power and force because they must be the first to guarantee observance of these human rights. And, we urge the competent authorities to take the necessary disciplinary measures to prevent a repetition of such events in the future.

On the other hand, we must remember that it is good to maintain the national integrity and that it is a right and historical duty of all Nicaragua to protect the nation's territorial integrity. We must also remember that it is a right and duty to preserve the legitimate possession and use of the riches of the natural, traditional and cultural patrimony of the indigenous people of the Atlantic Coast. In these we encounter and recognize with pride, not only the ancestry of our race, but also the identity of our ancient, prehispanic nationalities.

As we know, Mr. Chairman, the tragedy of Nicaragua's Indians is by no means unique in our deeply troubled times. Governments with totalitarian aspirations to control and transform the whole of society, and remake human nature, cannot bear peoples with strong convictions and settled communities. Jehovah's Witnesses, gypsies, Hmong, Bahai, Afghans, these and other groups have run afoul of one or more of our century's would-be totalitarians.

Unfortunately the whole pattern of repression that has developed in Nicaragua is all too familiar in our times—revolutionary

plans, violent overthrow of a preceding government, "postponed" elections, controlled press, arrested opponents, accelerated military build up, surveillance, intimidation, economic failure, politico-military expansion. This sad scenario describes the spread of tyranny in our times. It should no longer surprise us that the tyranny calls itself liberation. We have all had plenty of opportunity to learn that in our times, tyranny is always clothed in lies. As Solzhenitsyn noted: "violence does not and cannot exist by itself . . . It is invariably intertwined with the lie" since it must hide behind "the sugary words of falsehood."●

## COMMEMORATION OF SAINT DAVID'S DAY

### HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. NELLIGAN. Mr. Speaker, yesterday, March 1, the people of Wales recognized their patron saint, Saint David.

Saint David, as bishop of Menevia in Wales, became a man of great power, exercising influence over the moral and religious life of the people of Wales. As a missionary bishop, he founded many churches and monasteries. He remains a prominent figure in the history of Wales. He provided the foundation for the strong national patriotism seen today.

In America, Saint David's Day has been observed since 1729. This annual event led to the formation of the Saint David's Society, a group dedicated to the preservation of the language and rich traditions of Wales.

Americans of Welsh descent have long been recognized as pioneers in such fields as iron and tin works and coal mining. The immigration of the people of Wales to this country indicates that they were a strong and stable influence in the settlement of the United States.

In recognizing this anniversary today, I am proud to honor those who look to Saint David as their patron. I join with Americans of Welsh descent in the 11th Congressional District, which I am privileged to represent, in saluting this noble figure in their history.●

## OBSERVATIONS OF SUBCOMMITTEE OVERSIGHT TRIP

### HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. WON PAT. Mr. Speaker, the Subcommittee on Insular Affairs, of which I have the honor and privilege of chairing, jointly with the Subcommittee on Public Lands and National Parks, under the leadership of our colleague, JOHN SEIBERLING, recently completed an oversight trip to our Pacific flag and trust territories. Chairman JOHN SEIBERLING's subcommittee has legislative and oversight jurisdiction over our U.S. Trust Territory of the Pacific Islands. My Insular Affairs Subcommittee has jurisdiction over our U.S.-flag territories. My statement today is my personal impressions of the highlights of our trip, and a more detailed report will be submitted later.

Our 10-member delegations from the Interior and Insular Affairs Committee visited Saipan, Guam, Papua-New Guinea, Kwajelein, Majuro, Ebeye, Palau, Yap, Truk, Ponape, Fiji, and American Samoa, with a layover in Hawaii, during the period January 6 through January 22, 1982.

The principal objective of the two delegations' oversight visit was to update the subcommittees' information on conditions in Micronesia and in our Pacific flag territories.

The purpose of my delegation's visit to Fiji and Papua-New Guinea (as stated in my letter of November 16 to the members of my subcommittee) was to compare the political, cultural, and economic characteristics of these emerging Pacific entities with those of U.S. insular areas and to explore interchange possibilities.

The phenomenal industrial development of Japan has led to a growing interest in Micronesia and other Pacific basin communities. Already the interchange among the economies of the Pacific basin island communities is becoming complex. Nauru's investments in the Marshall Islands and Saipan are well known and increasing. So, too, are Japan's fishing interests in Majuro and Palau. The British consortium's 10-year $25 million powerplant contract with the Marshall Island Government is in progress. The copra exports from the islands are becoming more significant. Such multinational investment and bilateral trade is a manifestation of the growing interdependence of the economies of the Pacific region. Thus, it is becoming critical that the United States recognizes the regional dynamics of the Pacific basin and develop a systematic approach to it.

Mr. Speaker, the members of my delegation were particularly impressed with the strong economic and political progress which the Fijians have made and continue to make. Within the relatively short period of 10 years since independence, they have developed a thriving economy based on sugar, copra, timber, and tourism. With a population of nearly 600,000, 50 percent of whom are of Indian descent, and a land area of slightly over 7,000 square miles, Fiji will be a major entity in the South Pacific. Fiji's principal trade partners are Australia, New Zealand, and the Chinese. Fiji has a parliamentary democracy.

Let me add that Fiji is a consistent supporter of U.S. policy. An example was its decision to send a military contingent of 600 men to the Sinai peacekeeping force. The Law of the Sea is one issue, however, which finds Fiji in opposition to the U.S. position. Notwithstanding these differences, our American Ambassador, Bill Bodde, and his staff, are doing an outstanding job representing our interests in that country. The same thing can be said about our Ambassador to Papua-New Guinea, Virginia Schafer.

Papua-New Guinea is another recently independent island nation that we visited. Achieving independence from Australia in 1975, Papua-New Guinea is the second largest island in the world. Second only to Greenland in size, it has a population of about 3.5 million.

Like Fiji, New Guinea has a parliamentary democracy government and is part of the British Commonwealth. Its principal trade partners are Australia, New Zealand, and Japan. Copper, copra, and fishing are the main sources of foreign exchange, but there have been recent reports that Papua-New Guinea may be having international credit problems.

Once again, Papua-New Guinea's progress and development can be traced to the post-independent era, and will be an important member of the Pacific basin community of nations. Future accelerated economic development through multinational investments in Papua-New Guinea may be hampered by a very restrictive land policy.

We were recently honored by the visit to Capitol Hill of the Honorable Sevese Morea, Speaker of the Papua-New Guinea Parliament, who met my delegation during our visit to that country, and I want to personally thank you, Mr. Speaker, for finding the time during your busy and hectic schedule to meet with us.

The United States, as a Pacific power and trustee of the islands in Micronesia, remains directly involved in the political, economic, and security developments in the Pacific basin. Because our Nation will very likely be involved as participant and partner in the present and future political and security arrangements in the Pacific, it is imperative that we in Congress begin to focus on the type of regional infrastructure that should be in place, consistent with the political, cultural, and social habits of the peoples in the area. We need also to focus our efforts toward encouraging local leaders to think in terms of regional economic collaboration. Such discussions have already been initiated.

Although the Americans are generally perceived to be benevolent and a modernizing force in the Pacific area, U.S. policy remains ambivalent. In

fact, some South Pacific island nations continue to view the United States as a Pacific colonial power and this perception obviously prejudices bilateral efforts and meaningful regional economic collaboration among the island entities, including those under our jurisdiction.

In Guam, as in other Pacific territories, there are strong sentiments that the United States discourages a looser relationship with the United States and would not tolerate territorial initiatives to negotiate economic or financial arrangements with other governmental entities. These sentiments are reinforced by the reluctance of the United States to support the petitions of dependent flag territories for memberhip and equal representation in international or regional forums. (Until last year, Guam was not allowed to send observers to the Asian Development Bank meetings.)

Mr. Speaker, in most of the emerging entitles in Micronesia, the No. 1 topic of discussion was political status. Before the Carter administration left office, a compact of free association was initiated by the American negotiator, Ambassador Peter Rosenblatt, and the leaders of Micronesia. I understand that this administration supports the compact, and the subsidiary agreements are now being worked out.

In Guam, a plebiscite on political status was held on January 30, 2 weeks after our delegation's departure, and I am pleased to report that commonwealth status garnered the most votes, and statehood came second. Because of the low voter turnout of only 37 percent, the legislature is still debating whether to hold a runoff vote since none of the two status options gained the required 50 percent. In short, Mr. Speaker, there is sufficient impetus for change in the Federal-Territorial relationship and we in Congress, as well as the administration, must recognize it.

Besides the political status questions, Guam's other primary needs are infrastructure development and the national seashore park development. In this connection, I am pleased to report that the relationship between the military and civilian community on Guam has never been better, and I attribute this happy state of affairs to the new Commander of Naval Forces of the Marianas, Rear Adm. Bruce DeMars. Not only is he sensitive to the needs of Guam and Micronesia, he is well informed about the Western Pacific area.

January 11, 1982, was an historic and momentous occasion for the people of Saipan. The Honorable Messrs. Pete P. and Pete A. Tenorio, were inaugurated as Governor and Lieutenant Governor respectively. Although we were not able to remain on Saipan for the swearing-in ceremony, one of our colleagues, Congressman DON CLAUSEN, was able to be on Saipan to represent our committee. I am personally grateful to DON, whose presence at the inauguration reinforced our interests and commitment to our offshore possessions.

Besides regional cooperation among the island entities, our focus should be capacity building so that our offshore territories will have the means to become viable partners within this regional organization. A good beginning is the removal of those archaic legal constraints which impede economic developments in our offshore territories that are irrelevant to the maintenance of our national security interests in these areas.

Finally, Mr. Speaker, I was privileged and honored to have been asked to address the Fono (the Legislature of American Samoa) in a joint session. During the discussion which ensued, the Honorable Letalu Moliga, raised the question concerning the present Federal-American Samoa relationship, specifically as it relates to the authority of the Secretary of the Interior over acts of the locally elected leaders.

I indicated to the members of the Fono that I would look into the present governmental structure of American Samoa vis-a-vis its relation to the Federal Government with a view toward removing those archaic and cumbersome rules or regulations which exist in theory, but as a practical matter, rarely exercised. Specifically, I intend to introduce legislation to allow the people of Samoa to write a constitution of their own choosing and to bring this territory more in line with the other flag territories of the United States A detailed report on our oversight trip will be submitted shortly, and I thank my colleagues for the opportunity to make this preliminary report.

Finally, Mr. Speaker, for those of my colleagues who are interested in following the progress and development of our flag and trust territories in the Pacific, I commend to them Report No. 10, an oversight inspection trip which I, as chairman of the Subcommittee on Pacific Affairs, had the privilege of submitting February 13, 1981 through MORRIS K. UDALL, chairman of the House Interior and Insular Affairs Committee. Thank you.●

## FIFTH ANNIVERSARY OF THE IMPRISONMENT OF ANATOLY SHCHARANSKY

### HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. ADDABBO. Mr. Speaker, I am greatly honored to participate in this year's Congressional Vigil for Soviet Jews, and I wish to commend my colleague from New York (Mr. LENT) for his leadership in this important matter. This is a time when we can voice our deep and continuing concern over the oppression and harassment of Jews and others living in the Soviet Union. We join to protest the growing attempts to destroy the struggling cultural movement and the increasing curtailment of exit visas granted to those wishing to emigrate.

March 15 is a particularly important date during this vigil; it marks the fifth anniversary of the imprisonment of Anatoly Shcharansky. Mr. Shcharansky has become the focal point of the Russian dissident movement because of his efforts to help other Soviet Jews who have been the victims of government oppression. His case exemplifies the Soviet disregard for human rights; for liberty, justice, and freedom of expression.

Shcharansky was arrested in 1977 on charges of treason, and sentenced to 13 years imprisonment. He has been denied any semblance of due process, even under Soviet law. He has been held without contact with family, friends, or legal counsel. This has happened because Anatoly Shcharansky dared to speak of freedom in a country where fear and oppression are the norm. He is in prison today not because he has committed any crime, but because he was a vocal and dynamic founder of the Helsinki Watch Group, which was established to insure Soviet compliance with the human rights provisions of the Helsinki accords. He is no more guilty than the rest of the citizens of the world who protest against intimidation, oppression, and injustice.

It appears that the Soviet Union has attempted to make an example of Mr. Shcharansky in order to warn other dissidents who refuse to be silenced. Instead, he has come to represent the thousands of Soviet citizens who have suffered needlessly for crimes they did not commit, and who still continue to protest the cruel anti-Semitism in the Soviet Union. We admire the personal courage of Anatoly Shcharansky, Ida Nudel, and the countless others who persevere in their struggle for human dignity and freedom.

We again call upon the Soviet Union to release its prisoners of conscience, and allow them to emigrate in accordance with their basic human rights. As a signatory of the Universal Declaration of Human Rights and a party to the Helsinki Final Act, the Soviet Union has indicated its commitment to certain values and principles. We ask that these commitments be honored.

We cannot sit idly by as Soviet citizens who press for fundamental rights and freedoms are cruelly silenced. During this time especially, we must strongly reaffirm our support for Mr. Shcharansky and all those who have

been the target of blatant violations of human rights. We must continue our growing protest until the Soviet Union recognizes that we will not rest until these courageous and proud people are free.●

## LYNN SINGER: LONG ISLAND'S VOICE ON BEHALF OF SOVIET JEWRY

**HON. JOHN LeBOUTILLIER**
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LeBOUTILLIER. Mr. Speaker, on Long Island there is one sole voice that speaks out and looks out for the plight of Jews trapped in the Soviet Union. I say "trapped" because they are not allowed to emigrate to the country of their choice, a right guaranteed them by the Universal Declaration on Human Rights and other international agreements including the final act of the Conference on Security and Cooperation in Europe, signed in Helsinki in August 1975 by 35 nations including the U.S.S.R. And I say "trapped" because in exchange for the exercising of their right to emigrate they are scorned and frequently imprisoned by Soviet authorities.

That sole voice from Long Island speaking out for their freedom is an organization called the Long Island Committee for Soviet Jewry, which, I am proud to say, has an expanding membership, many of whom come from my congressional district.

The committee is very adeptly headed by its executive director, Lynn Singer, of East Meadow, Long Island. As if to set a theme for her work, the sign she keeps over her desk reads: "Let my people go."

I would like to take time out to have the worthy goals, activities, programs, and aspirations of the Long Island Committee for Soviet Jewry and of its executive director set down in the CONGRESSIONAL RECORD.

The committee was formed in reaction to the so-called Leningrad trials of 1970 at which a small group of both Jewish and non-Jewish Soviet citizens were accused of "attempted illegal possession of government property" for having plotted to hijack a Soviet airplane in order to fly to freedom in Israel.

A protest rally centered around two former Long Island airplane hangars decorated to resemble Soviet prisons attracted over 5,000 people, including elected officials and religious leaders of many faiths. They witnessed mock prisoners being served what they said was a typical Russian daily prison diet: a boiled potato and a piece of bread.

Although some of the Soviet prisoners were sentenced to death for their plot, most have either served out their sentence, been released, or traded for Russian spies captured in the United States.

In the 12 years since the Long Island Committee first protested the inhuman conditions and treatment that Soviet Jews were being subjected to, those conditions have worsened to a shocking degree.

Soviet authorities have undertaken a continual massive crackdown on the leaders of the Soviet Jewry movement. For example, in Kiev, refusenik—the term given to a Soviet citizen officially denied permission to emigrate by Soviet Jewry watchers—leaders Vladimir Kislik, Kim Fridman, and Stanislav Zubko received prison sentences of 3, 1, and 4 years respectively. And in Leningrad, Yevgeny Lein was sentenced to 2 years "corrective labor" after being arrested at a Jewish cultural seminar. The examples I cite are not rare occurrences when it comes to the denial of rights freely granted other citizens of the Soviet Union.

Discrimination in employment, education, growing official anti-Semitism which incites hostility against them, as well as many kinds of social discrimination, have contributed to the desire for many Jews to emigrate. But as this desire intensifies, so does official Government opposition to the granting of their freedom.

Although the Soviet Union has signed international agreements declaring that every citizen has the right to leave any country including his own and return to that country if they so desire, and that citizens have the right to pursue their own cultural identity and practice their own religion, this certainly has not been the practice in the U.S.S.R.

In response to world public opinion, 250,000 Jews have been allowed to emigrate during the last decade. In recent years there has been a steady decline in emigration. A record 51,000 Jews left the U.S.S.R. in 1975. In 1980, after the invasion of Afghanistan and subsequent cooling of United States-Soviet relations, only 24,000 left. It is estimated that the final number of emigrees for 1981 will be around 12,000.

But this discouraging news, while disheartening, certainly has not dampened the efforts of the Long Island Committee for Soviet Jewry. Their loud voice continues to be heard in my congressional district, in New York State, Washington, and even inside the Soviet Union, through a series of innovative programs.

One such program, called adopt-a-family, enables an American family to establish and maintain contact with a Jewish Soviet family that has applied for an exit visa. Their American counterparts provide them with whatever assistance is necessary until they are able to leave the U.S.S.R. Hundreds of adopted families have made it to freedom since this program was initiated.

Another program, called adopt-a-prisoner, pairs Members of Congress with Soviet Jews imprisoned for applying for exit visas. The Congressmen write to the prisoners and Soviet authorities urging their release. Since this program was initiated in 1972 more than half the prisoners adopted through the Long Island Committee have been released. Although I have not as yet had the good fortune of having my prisoner see the light of freedom, I have heard of the joy my colleagues have experienced when they were able to meet prisoners they had been corresponding with and adopted.

The Long Island Committee also furnishes advice on travel within the Soviet Union to Americans planning on making the trip. They are advised how to make contact with Soviet Jews to bring them news from outside the Iron Curtain without endangering the safety of either party.

Bar or bat mitzvah twinning, yet another Long Island Committee program, allows an American youth celebrating a bar or bat mitzvah—welcoming the youth to manhood or womanhood, respectively, within the Jewish religion—to also observe the ceremony for a youth in the Soviet Union who is prohibited from observing this traditional Jewish rite in his or her own country. The American youth than calls or writes his Soviet counterpart to tell of the ceremony held in honor of both of them.

The Long Island Committee also sends warm clothing to refuseniks sent into exile, sends books on Jewish history and Hebrew language instruction to Soviet Jews longing to know more about their heritage, takes freed Soviet refuseniks on speaking tours of the United States, and telephones Soviet Jews awaiting visa approval to tell them of activities outside the U.S.S.R. undertaken to gain their release.

Despite the discouraging emigration figures, these programs and the release of some long-held refuseniks have brought some reward to the Long Island Committee for Soviet Jewry and executive director Lynn Singer.

We see ourselves basically in the rescue business—

She says,

for Jews and non-Jews alike.

She remembers, for example, the first time she met Sylva Zalmanson, a stranger she had grown close to through her efforts to gain freedom for the young Jewish woman.

She was a legend. She was our modern heroine, our Jewish martyr. The two of us hugged and kissed. We looked each other over and our eyes naturally went to our feet. Then we both began laughing hysterically. We had both bought new shoes for

the meeting and her shoes and my shoes were identical. It was as if we were sisters.

When I saw Mark Yampulsky for the first time I burst out crying in both joy and hysterics. I had sent Passover packages with candies and little Hebrew books with pictures to Mark thinking he was six years old. When this tall man got off the plane I was shocked. He told me kindly that he had received my packages.

But will the Jews of the Soviet Union ever be let out en masse?

Never as a people—

Mrs. Singer says—

Their government's goal is for them to assimilate and disappear. That's their answer to the Jewish problem. Soviet Jews are being denied an education. The government believes they will grab at assimilation in three to four generations.

Our job is to get out as many Soviet Jews as we can while they still know who they are—and while we still know who they are.

The sign bearing a quotation from the Talmud hanging over Mrs. Singer's desk seems particularly poignant. It reads:

He who saves a single life, it is as though he has saved the entire world.●

## A TRIBUTE TO MRS. RUTH SULZBERGER HOLMBERG

### HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mrs. BOUQUARD. Mr. Speaker, I would like to take this opportunity to recognize and thank Mrs. Ruth Sulzberger Holmberg for her outstanding contributions to the cultural life of Chattanooga, Tenn. Mrs. Holmberg has worked to expand the arts programs in Chattanooga and to bring recognition to the city as a cultural center.

During her 35 years in Chattanooga, Mrs. Holmberg has actively participated in State and local cultural organizations. She was the first woman president of the Chattanooga Symphony Association and was named to Tennessee's first fine arts commission by the late Gov. Frank Clement. Mrs. Holmberg has served on the boards of the Chattanooga Opera Association and the American Symphony Orchestra League. She is presently the chairman of the board of trustees of Hunter Museum of Art and is involved with the allied arts fund. Recently, in recognition of her outstanding contribution to the arts in Chattanooga, the Chattanooga Symphony and the Chattanooga Opera Association honored Mrs. Holmberg by presenting her with their Gala 1982 Award.

The Chattanooga area has benefited greatly from Mrs. Holmberg's hard work and dedication. Her interest and enthusiasm have developed the community's cultural awareness and her creative ideas for the future will promote the expansion of cultural opportunities in all of east Tennessee. I salute Mrs. Ruth Sulzberger Holmberg and her efforts on behalf of our community. I am pleased to have this opportunity to personally express my admiration for her leadership and to bring her superior achievements to the attention of the full House of Representatives.●

## REPRESENTATIVE STARKS' TESTIMONY ON OAKLAND RAIDERS ISSUE

### HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. FAZIO. Mr. Speaker, on February 10 my colleague from the East Bay area of California (Mr. STARK) testified before the Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee concerning an issue of great interest in the San Francisco Bay area—the future of the Oakland Raiders.

The testimony is an excellent summary of why sports franchises must be responsive to those local communities which support them.

I would like to include PETE STARK's testimony in the hearing record at this point. It will be of interest to sports teams and lawyers throughout the Nation.

The statement follows:

TESTIMONY ON OAKLAND RAIDERS ISSUE

(By FORTNEY H. (PETE) STARK)

INTRODUCTION

Mr. Chairman, I would like to thank you and the other distinguished members of the Subcommittee on Monopolies and Commercial Law for the opportunity to testify on the relationship of our antitrust laws to professional sports. The interplay between our laws and professional sports has been and continues to be of great interest to me. In particular, I am concerned that clear, legal standards have not been established that determine the responsibilities of sports franchises to their host communities. More generally, though, I am troubled by what I see as a lack of clarity in the antitrust standards used in considering sports league issues. The court decisions to date are full of contradictions and an effort to distill meaningful rules for the operation of professional sports from those cases is an exercise in futility. As legislators, it is our responsibility to sort out the confusion generated by our courts, and provide both the sports industry and the federal judiciary with a clear set of legal principles to be applied to professional sports antitrust issues. While such clarification may be useful in many respects, it is most clearly needed in the area of transfers of franchise location.

As you know, the citizens of Oakland and its metropolitan area were shocked and outraged by the Oakland Raiders management's efforts to misuse the antitrust laws to relocate the community's team to Los Angeles, despite the strong and continued financial and moral support the Raiders have received in the Oakland area. Because this proposed move would unfairly and adversely effect the citizens I represent, and because it represents but one example of the more general problem I mentioned a moment ago, I have searched for legislative solutions that are fair to sports franchise communities, to sports teams, and to sports leagues. I would like to review my proposed legislative solutions in greater detail, but first I would like to discuss why we need legislation to address this problem.

THE RESPONSIBILITY OF PROFESSIONAL SPORTS TEAMS TO THEIR RESIDENT COMMUNITIES

There are a number of reasons why legislation should be enacted to discourage unnecessary and disruptive professional sports team relocations. First, these teams are a source of deep and lasting pride to the metropolitan areas in which they are located. They act as emissaries of their community, representing in their national competitive efforts the spirit of their local fans. They provide an important form of entertainment and a pastime for dedicated fans, who not only watch the contests, but celebrate the victories and commiserate over the losses. In 1981 and 1982, for example, it was Oakland and San Francisco—not the Raiders and 49ers—who won the Super Bowl. Sports teams, as we all know, are often vital catalysts in bringing a community together, and in promoting charitable, cultural, and youth opportunity programs.

Moreover, the presence of a sports team stimulates economic activity, not just in the "home city", but throughout the metropolitan area. Jobs for the construction, maintenance, and operation of the stadium, as well as for the team and concessions, are created. Substantial sums of money are invested in businesses that locate near a sports stadium, and sports teams are sometimes the cornerstone of major urban renewal efforts. Yet, any one of these teams, lured by rosy financial prospects elsewhere, may attempt to leave its home city and fans behind, together with an empty stadium built at taxpayer expense for such a team. That is what has happened in Oakland.

Beyond these practical objections to such moves, I believe fairness to communities that bend over backwards to help these teams dictates that municipalities must be protected from whimsical relocation decisions. For example, often municipalities provide costly facilities and favorable rental terms to professional sports teams in their areas. Typically, a city wishing to attract or retain a pro team will seek public approval of capital construction bonds to build or improve a stadium as part of the agreement with a team planning to play in that city. Such stadiums are usually under the jurisdiction of a city, county or municipal corporation. Often multiple uses of a stadium are necessary over a long term to cover the community's investment. These types of revenue bond "subsidies" are not unique to sports, for they are often used to attract other kinds of private business activity, such as industrial parks. But sports teams have been the beneficiaries of such investments on a large scale in many communities, and they can properly be asked to fulfill reciprocal obligations to the community. Moreover, these stadium investments represent only part of the public benefits sports franchises receive.

This situation is, I might note, precisely the case in Oakland, where the community erected a modern stadium solely for the Raiders, and solely because without such a

facility, the team would have shortly moved to another community. Surely it would be unfair under these circumstances to permit a sports franchise to abandon a community and its loyal followers merely to secure a more lucrative financial arrangement elsewhere. Yet, this is the type of situation a sports franchise community can face, and exactly what the citizens of the City of Oakland are facing now.

THE OAKLAND RAIDERS CASE

For a number of years, Mr. Chairman, Oakland enjoyed a good working relationship with the Raiders football organization. The team came to us when the American Football League selected Oakland as a franchise site in 1960. Throughout the early 1960's, the Oakland community worked hard with the Raiders organization and with the AFL to make the City attractive to it. In addition to building two stadiums at taxpayer expense, East Bay governments and citizens, both individual and corporate, have made every effort to ensure that the area is a good home for the Raiders. For their part, the fans have given the team unprecedented support—over a decade of sell-out crowds. No one could ask for more.

In early 1980, however, the Raiders announced their plans to leave Oakland for Los Angeles despite the tremendous support they have received from the community and notwithstanding a new and most generous lease offer. (In addition, two Oakland businesses committed over $2 million to fund improvements for the Coliseum.) Mr. Chairman, I have followed this issue closely over the past two years. There is no evidence whatsoever to suggest that the Raiders are having any real financial problems in Oakland. I am sure that the team is economically sound, and that the new lease offer would have improved its financial situation to a considerable degree. In brief, Oakland has been very good for the Raiders, and, in fact, it was inconceivable to me that Mr. Davis would consider abandoning the Oakland area or that our legal structure might permit such a thing to happen.

In 1966, when this very Subcommittee was reviewing, and eventually approving the merger of the AFL and the NFL, it was clear from both the merger documents and Commissioner Rozelle's testimony that the NFL had no intention of moving the Raiders from Oakland. During the merger hearings, officials of both leagues stated that no teams would be moved as a consequence of the merger, even in the New York and Oakland-San Francisco areas where more than one NFL League team would be located. This promise was consistent with the NFL's long-standing policy of retaining teams in their home area, where at all possible, and I believe that in the past 30 years, only two NFL franchises have been permitted to relocate—and then only upon a finding of exceptional circumstances.

Mr. Chairman, no exceptional circumstances exist in the Oakland case, and the NFL has voted to keep our team at home. Unfortunately, the League is not the final arbiter of such decisions, and appeals can be and have been made to the courts. As you know, in the Oakland case, the Los Angeles Coliseum and Mr. Davis have sued the League on antitrust grounds and that matter may not be resolved for some time.

Mr. Chairman, the events experienced by the citizens of Oakland regarding the Raiders' proposed move point to the need for a reexamination of the law in this area. Dozens of sports franchise communities face the possibility that they will someday lose their baseball, basketball, football or hockey franchise simply because a profitable, well-supported team wants a better deal. What happens to the new host community when the team they have lured to their area decides to leave for still another city? Don't the fans have any rights? They, after all, are the ones who ultimately pay for it all.

But more generally, Mr. Chairman, I do not see that this issue is properly in the antitrust courts at all. In 1976, the Department of Justice testified before Congressman Sisk's Select Committee on Professional Sports that franchise relocations do not present antitrust issues. The antitrust laws are designed to promote the public interest and consumer welfare. They are not designed to yield indefensible results, such as where two diametrically opposite actions are equally subject to antitrust challenge. Had the League approved the Raiders' move to Los Angeles, I have no doubt that Oakland interests would have filed suit, charging the NFL with illegally establishing the San Francisco 49ers as a monopoly in Northern California. As both a businessman and a member of Congress this makes no practical sense to me.

Further, the antitrust laws were not meant to promote "home court" justice, where a Los Angeles court and a Los Angeles jury are asked to do what nobody really believes is possible—fairly apply legal standards that affect the interests of Los Angeles and Oakland in securing an NFL franchise.

In order to be meaningful, our laws must be clear and understandable. The laws of our country should not promote guessing games, nor should they immobilize our citizens out of fear that every action will be subject to challenge. Sports leagues, like any other business, have the right to know what is expected of them under the antitrust laws. The current state of affairs benefits neither the sports industry, nor the general public.

TOWARD A LEGISLATIVE SOLUTION

*H.R. 2557 and H.R. 823*

Mr. Chairman, I have to date introduced two bills which are designed to prevent the relocation of professional sports franchises under circumstances which would unnecessarily harm the home community. These bills are H.R. 2557 and H.R. 823. H.R. 2557 treats certain franchise relocations as a sale of the franchise for an amount equal to the fair market value of the franchise at the time of the move. In other words, this bill attempts to resolve the problem through the use of tax code disincentives. Of course, the legislation would not treat a franchise relocation as a sale if the move were necessary for the team's economic survival. It would only discourage what I would call sports franchise auctioning. In other words, it would prevent financially well-off teams from moving to wherever the highest possible bidders reside.

The "Sports Franchise Relocation Act," H.R. 823, which is co-sponsored by my good friend, Don Edwards, takes a different approach. It would prohibit the relocation of a professional sports team unless a showing could be made that one of several specified conditions is in existence. If a league disapproved a relocation, that would be determinative. If it approved a relocation proposal, but the community being abandoned objected, arbitration proceedings would be triggered to determine specifically whether any of the requisite conditions are present. Finally, H.R. 823 establishes that league relocation decisions reached pursuant to its provisions would not be subject to attack under our antitrust laws.

The objective of these bills is not to require teams to be permanently committed to a given area, regardless of that location's effects on a team's earnings and overall success. Major league sports franchises are expensive enterprises and cannot rationally be expected to function permanently with inadequate returns, inadequate facilities or inadequate support from their local communities. H.R. 2557 and H.R. 823 are designed, however, to bring about a recognition on the part of team owners that the relationship between a sports franchise and its metropolitan area is a unique one. It is a mutual relationship, not a one-way proposition. This relationship requires mutual accommodation and mutual respect for the interests of the other, and it would be threatened by excessive shopping by sports franchises for new locations. On the other hand, I recognize that the mutual relationship of which I speak would also be threatened by an overly restrictive sports franchise transfer policy or by a refusal of local authorities to respond to a franchise's legitimate needs.

Back in May of 1981, as a member of the Ways and Means Subcommittee on Select Revenue Measures, which I now chair, I presided over a hearing which explored the tax issues involved in the sale or transfer of professional sports franchises. At that time, Mr. Herman Sarkowsky of the NFL's Seattle Seahawks appeared on his own behalf and made many of the same points I am making here today. He recognized, for example, that local communities and their sports franchises must work together to resolve their differences, taking into consideration the interests of all parties concerned. He also recognized that it would be unwise to permit franchises "to exploit [the] temporary benefits of relocation" while not considering the rights of local fans. In fairness to Mr. Sarkowsky, I should add that he felt that the best solution to the problem would be to permit a sports league of which any franchise is a member to have a voice in the situation. A responsible sports league, he argued, can be expected to operate with a sense of its own public relations interests locally, regionally and nationally. It will also be most concerned with the preservation of its reputation and mindful of its relations with the Congress.●

## ECONOMIC IMPACT OF WATERWAY PROPOSALS

**HON. JAMES L. OBERSTAR**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. OBERSTAR. Mr. Speaker, the Subcommittee on Water Resources began hearings today to examine the improvement and operation of the Nation's water transportation system, including coastal and Great Lakes ports, the St. Lawrence Seaway system, and the inland and intercoastal waterways. I want to take this opportunity to commend the gentleman from New Jersey (Mr. ROE) for his decision to conduct extensive and in depth hearings into this difficult and complex issue. During the next 2 months the

subcommittee will focus on the interrelationship of competing transportation modes and will develop innovative approaches to improving the Nation's waterway transportation system.

I would like to share with my colleagues a letter that Davis Helberg, the port director of Duluth, wrote to the president of a mining company engaged in shipment of iron ore on the Great Lakes. Mr. Helberg's letter clearly demonstrates the potential for cargo diversion and economic disaster inherent in S. 1692, a modified version of the administration's original user fee proposal. This bill, if enacted, would disrupt current competitive relationships between ports and port ranges, encourage the dumping of foreign goods and commodities on American markets, and add to the current economic distress of the entire Midwest.

The section 205 study, mandated by Congress in 1978 and recently released by the Department of Transportation fails to address any of these concerns and specifically fails to examine the effects of user fees on the Great Lakes. The Senate Environment and Public Works Committee has exempted the connecting channels between the Lakes from their legislation. But I would suggest to my colleagues that Mr. Helberg's arguments are still valid and that the following description of what may befall the Great Lakes is applicable to other ports and regions of the country.

In short, whenever a nation handicaps its own transportation system by enacting new transportation taxes, that nation places a burden not just on the users of that system, not just on the companies who transport their commodities on that system, but on every American who produces or purchases American goods and hinders the Nation's ability to compete in international commerce.

DEAR SIR: We read with interest the newspaper accounts of your recent remarks regarding the "great erosion in the competitive position of Minnesota iron ore producers."

In view of the great mutual reliance between the Iron Range and our Lake Superior ore-shipping ports, we most certainly share your concern.

We take this opportunity, however, to also call your attention to another taconite tax (and we don't use "tax" in quotes because it is, indeed, a tax) that has been proposed in Congress and is gathering momentum almost daily. This, in various forms and by many different names, is the proposal to recover federal costs for the operation and maintenance of the nation's ports and channels through collection of user fees.

The Administration's clearly-stated goal is to recover 100 percent of the approximately $300 million now expended by the U.S. Army Corps of Engineers for maintenance dredging of deep-draft ports and channels. With the nation's budget egregiously out of whack, the intent is noble—but the approach that's planned can only have ruinous effects on the present flow of waterborne commerce.

"Non-federal public entities" would have the responsibility of assessing and collecting user fees in the various ports to pay for dredging that has been otherwise performed by the government throughout our history. But some ports require far more dredging than others; and some (like ours) require the use of connecting waterways (such as the St. Marys River, the St. Clair River, Lake St. Clair and the Detroit River) to move cargo efficiently and economically between one place and another.

In the Senate, there is a steamroller action underway that is bent on getting some type of user fee legislation rammed through regardless of the ramifications.

The latest effort, S. 1692, authored by Senators Abdnor of South Dakota and Moynihan of New York, is scheduled for mark-up before the Water Resources Subcommittee of the Environment and Public Works Committee on Wednesday, November 18. Despite the fact that no hearings have been held on the bill—and after two last-minute postponements—it now seems that mark-up is a certainty.

S. 1692 is toned down somewhat from the original Administration proposal in that 25 percent of the dredging costs would be borne by users instead of 100 percent. As far as the Great Lakes are concerned, however, the difference seems to be a question of whether we'd prefer hanging or shooting.

Enclosed is a printout of a "cost recovery analysis" of the bill prepared by the subcommittee staff. It compares port-by-port user fees per ton which would be required by the original Administration bill, S. 809, and S. 1692.

At first glance, one sees that S. 1692 would require a Duluth-Superior user to pay 1.4 cents per ton. Based on 1980 ore shipments of 26,344,697 net tons, that works out to $368,825.76. For the ore industry, perhaps that is not a terribly significant figure.

But if we add the printout's figures for the St. Marys River (63.4 cents), the St. Clair River (3.9 cents), the Channels in Lake St. Clair (0.1 cent) and the Detroit River (24.3 cents), we're looking at 93.1 cents per ton just to get to Lake Erie. Now the ore industry's share for Duluth-Superior shipments for the year is $24,526,912.91.

Then add a discharge port, say Cleveland. Obviously it's not all going to Cleveland, but at 18 cents per ton nothing would go to Cleveland. Perhaps Toledo is better at 3.2 cents per ton. Or Ashtabula at 1.2 cents.

Whatever, wherever, we're still talking about roughly $1 per ton or about $25 million per year without even considering other Lake Superior ports. And please bear in mind that this is one-fourth less than the fee preferred by the Administration.

We have to wonder how much greater would be the "erosion in the competitive position of Minnesota iron ore producers" should any of this come to pass.

Not surprisingly, the subcommittee printout contains some gross inaccuracies. For example:

The St. Marys River did not handle 2,736,135 tons in 1978 as indicated. It handled 90,761,568 tons. Consequently, both the $2.53 per ton fee in the Administration's proposal and the $0.63 fee in the Abdnor-Moynihan bill are highly inflated. Or are they? The $6.9 million figure quoted for O&M costs is less than half of what we understand real costs are.

The channels in Lake St. Clair are listed as handling 102,197,942 tons. That coincides with the Corps of Engineers' Waterborne Commerce of the United States for 1978 (Part 5, National Summaries). But the printout shows 14,382,257 tons for the Detroit River and 4,845,300 tons for the St. Clair River. The balance of the commerce must have leapfrogged those stretches because the National Summaries show 113,031,836 tons for the Detroit River and 106,868,536 tons for the St. Clair.

Figures, of course, can always be corrected. But the point again is that some of the good Senators are galloping off half-cocked without any idea of where they're heading. As far as we know or have seen, no one has conducted an analysis of the impact that these fees—at any level—will have on our domestic or international commerce.

I recognize that this is ponderously long. Nonetheless, we simply aren't seeing much reaction from our maritime community—ore, grain, coal, the lake carriers—to what we perceive not only as a threat to Great Lakes commerce but to our very Great Lakes industry as well.

We solicit the assistance of your good office and, by copy of this letter, from your colleagues as well.

Sincerely,

DAVIS HELBERG,
*Executive Director.*●

## YOUTH DEVELOPMENT THROUGH CRIME PREVENTION

### HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DeNARDIS. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues an article from the July 1981 issue of Law and Order, an independent magazine for the police profession, entitled, "Youth Development Through Crime Prevention" which was authored by a constituent of mine, Stanley W. Konesky, Jr.

Detective Konesky is a 9-year veteran of the Branford, Conn., Department of Police Services and has directed the crime prevention unit's operations during the past 5 years. In his article, he describes the student awareness program which focuses on the concept of educating our youth on positive values, proper decisionmaking processes and the managing of peer pressure as a mechanism to deter potential future criminal activity. The program addresses the causes of problems that surface during the child's development and is geared for the K-6 grade level on a full academic basis throughout the year. Approximately 2,200 students participate.

Student awareness is the only program of its kind in Connecticut, and I strongly encourage my colleagues to introduce this innovative approach to crime prevention and youth development to the towns and cities they represent.

The text of Detective Konesky's article follows:

YOUTH DEVELOPMENT THROUGH CRIME PREVENTION

(By Detective Stanley W. Konesky, Jr.)

In 1975 the Branford Police, under the direction of Chief Raymond Wiederhold, chose to expand services in crime prevention. A program was needed to address the future wants of the community. The concepts and ideas in crime prevention could be best understood and presented to future citizens (the students) through the educational system. Very few Connecticut police departments had a formalized curriculum on an academic year basis.

The Crime Prevention Unit first met with the Parent-Teacher Association (PTA) from two schools in Branford, the Branford Hills and Short Beach Schools. The question was, to which level in the educational system should a Student Awareness Program be geared? It was felt that resources directed at the upper grade levels of Intermediate and High School would be initially misdirected since these youths had adopted their own peer groups, concepts and direction.

The program must address the foundation beginning at the K-4 level and continue through the academic year to show the students their responsibilities. The police understand the peer pressure and problems these children face on a day-to-day basis.

These programs were set on a two month interval for each topic. July and August was for preparation; September and October for police and their roles; November and December for vandalism; January and February for school bus and bike safety; March and April for drugs and poisons, ending with May and June for an art contest and graduation.

It is important that the Chief of Police lend his credence to the program by being the guest speaker during the graduation and presenting the diplomas to each child. This conveys a feeling of accomplishment and importance.

UPPER LEVEL PROGRAMS

At the Branford Intermediate and High School presentations by the crime prevention officer were given periodically during the year. In the Intermediate School teachers developed a Smoking, Alcohol and Drug booklet and distributed it to the seventh and eigth grade students for a five week instructional lesson on its content.

The crime prevention officer conducted classes at the Branford High School on the police in the community, why the police act and react as they do, rape prevention and other topics of interest to the young adolescent. At both schools the programs were geared toward understanding the police in today's society. Youths asked questions and expressed their opinions.

PROGRAM DEVELOPMENT

Developing the Student Awareness Program required the identification of goals and objectives related to youths. These goals were researched through meetings with the crime prevention officer, PTA members, teachers, and various school administrators and persons from different town agencies. In the development of the curriculum, six specific goals were highlighted:

I. The peer group pressure is an extremely forceful tool used against children in our society. The influence of small informal groups, school yard clubs and classroom bullies all thrive on peer pressure. Through the curriculum the students would realize that to be wanted, liked and accepted is healthy. When one person gives up his identity and acts as someone else wants him to act, this student is not himself.

II. The second goal was to deflate peer group pressure and to identify potential delinquency behavior in the childrens' early school years. Two areas were explored: (1) The use of teachers with their professional knowledge to identify reading and speech difficulties, or any tendency of delinquent behavior and to address this potential problem by making appropriate referral within the school system. (2) For the crime prevention officer to identify socially accepted behaviors and to relate these to the students.

III. The third specific goal explored the television image of violence. This was done through reviewing police oriented shows as well as cartoons. When children viewed these programs, they tended to form personal concepts concerning TV related to real life.

Student Awareness had to demonstrate that shows like "Starsky and Hutch", "Adam 12", "Batman and Robin", etc., portrayed super heroes in an unreal fashion. This is done by dissecting the shows and revealing certain segments to the children and asking them to distinguish the reality.

Also, it is explained that such cartoons as "Bugs Bunny" "Popeye", and "Roadrunner", although enjoyable, are not real. Such violent behavior in a real world could cause severe injuries, even deaths. Therefore, the children are told, living through the eyes of cartoon characters is very unhealthy.

IV. The fourth specific goal dealt with the adult custom of telling children "Not to do this or not to do that," without explanation. Adults comprehend their reasoning when they prohibit children from engaging in certain acts such as vandalism, stealing, even noncriminal acts. However, an inadequate explanation could arouse the child's curiosity.

V. This leads to the fifth goal which would be to eliminate the "Inquisitive challenge." Adults must learn to abstain from telling children not to do something, show a film and not fully explain it, but learn to involve themselves in a topic and subject matter and expose all sides of the material to the children.

This enables the child to answer his or her own questions and not depend on peer group support. In the "Inquisitive challenge" the consequences of behavior were fully explained by the crime prevention officer to expose the child to the full implications of their actions and safety.

VI. The final specific goal was to link all segments of our community around the student. This would be accomplished by the parent, police, teacher and community groups working together to increase the awareness of the student in all levels of society.

The curriculum was geared specifically for presentation to grades K-4 and developed lines of communications between the police and students on a day-to-day basis. Through this, credibility of the uniformed police officer will be realized. The crime prevention officer initially presents the major functions of the police: to help, protect, direct traffic and arrest.

TELEVISION PROGRAM

To further make the students aware of the police officer's role and the danger of television myths, the "Quarter concept" was implemented. In this learning experience, the class is divided into two halves, one half being advised they would each be given four quarters at the end of the class day, and the rest of the class would be given one quarter.

Immediately this caused dissention, students starting it was unfair. The crime prevention officer then reversed the allocation of quarters. Again the first half of the students would state that it was unfair.

The students are then asked to identify how many of the original police roles are identified in television programs as "Adam 12", "S.W.A.T.", "Rookies", etc. The general consensus is only one, the arrest aspect. The analogy is that the four roles of the police, equaling the four quarters of the whole, represent a total picture. When only one quarter is revealed, the audience is not getting a fair viewing of the real police world.

This is also carried over into television cartoons showing Elmer Fudd shooting Bugs Bunny and the Three Stooges being abusive to each other with hammers, pans, etc. The reality is revealed that shooting someone would definitely cause pain, and that hitting with a hammer or a pan would cause injury. In the final analysis the student accepts the television program as entertaining, but that the actual portrayal of these concepts is not real and possibly extremely dangerous. This generates numerous questions for the crime prevention officer. The time element of the class varied according to the grade level.

STRANGERS

During the first presentation the concept of strangers giving candy and rides to students is fully explained. Students often forget this concept especially on Halloween night. They are given a phrase to remember which states, "When in doubt, throw it out." Students receive a pamphlet on Halloween safety to further this learning experience.

TELEPHONE

The last area in the first presentation is telephone demeanor. The students engage in role playing in situations when it would be necessary for them to contact the police department. It is highly recommended that the student dial zero during the program for two specific reasons: (1) Branford has a small percent of its student body attending from adjoining towns. (2) It is easier to remember a one digit number.

The students are told to call the police only for an emergency. They are also told they are not going to talk with television actors, but with real police officers who must respond to their complaint immediately. Clear pronunciation, relevant information and a serious attitude are necessary when calling.

This is demonstrated by the student using a telephone and the crime prevention officer acting as the operator giving the police response.

Students are told that four things are necessary: their name, location, telephone number and problem.

VANDALISM

This topic deals with the money motive and other causes of vandalism. The topic stresses both the apprehension costs and feelings of a family being victimized. Further, the myth is exposed to teachers and PTA that, contrary to traditional vandalism programs which demonstrate swift apprehension and punishment of juveniles, this doesn't occur in our criminal justice system.

Students were given a definition of vandalism as "Damaging people's property." In the younger grades the spelling of the word

"vandalism" is used as an interest mechanism.

Students were polled for their reaction when vandalism is done to their property and what feelings they would encounter during this situation. The student realizes that vandalism costs money and they are potential victims.

An interesting program feature concerns students' lists of reasons why their parents work: money for taxes, rent, clothing, utilities, trips, vacations, allowances, etc. Relating the increased costs from vandalism to existing costs shows that the eventual loser becomes the child. They understand that vandalism is a direct challenge to their happiness.

A child is given the situation wherein he chooses between vandalism for peer pressure acceptance or increased purchasing power. An analogy is presented of a window that cost $25. Children can share that money with their friends for an afternoon at a fast food restaurant or pay for the window.

In showing films relating to vandalism the "Inquisitive challenge" is ever present on the mind of the crime prevention officer and teacher. Safeguards are created to prevent igniting this type of challenge to engage in vandalism and to explain the problems related to vandalism which will hopefully minimize this type of behavior.

BICYCLE AND SCHOOL BUS SAFETY

On alternating years bicycle safety is presented, then complemented with school bus safety. This is accomplished with films, demonstrations by school bus companies and a talking school bus known as "Blinky".

This section is not geared to threaten or make the student fearful, but to give a realistic view of the problem of school bus safety.

Concerning bicycle safety and theft prevention, explanation of proper locking devices, securing of bicycles, proper safety devices and precautions on bicycle riding are highlighted. Films related to theft prevention, such as "Creepo", are viewed by the children and discussed before, during and after each session.

DRUG EDUCATION AND POISONS

The peer pressure, acting like an older child/student, and the daring-concept are targets in this session. Mainly marijuana and pills are explored, their effects on individuals are described with emphasis on medical ramifications. Modern day myths that marijuana leads to heroin addiction are discussed, along with the dangers of poison to younger children and safety at home.

It is pointed out that students must make the decision of personal safety for their own health or arbitrarily sacrifice such for acceptance in a peer group. Friends they have today may not be remembered tomorrow, and they must take care of their own person. An open session is conducted after the drug presentations to answer questions and to relate stories of drug abuse.

Cigarette and alcohol abuse are also explored. In the poison session, Mr. Yuk, the National Poison Center's logo, is explained.

IMPLEMENTATION

For a program to be successful, a structured curriculum is the best method to convey goals. The review process of the curriculum had three clearing points.

First, in early July the school superintendents are given an overview of the curriculum for the upcoming academic year. This allows ample lead time for any corrections as well as new ideas he/she wants implemented. Once the first review is completed, the program, with modifications, is readied for review by the teaching administrators and principals of the schools involved.

During early August a general meeting is held for all persons to make further adjustments so the individuality of each school is represented during every session of Student Awareness. Critiques from the preceding year are reviewed and further alterations discussed. During this meeting the crime prevention officer advises school administrators that teachers have two responsibilities:

1. That teachers give a preview as well as a review of the subject matter during the time frame that the topics are scheduled.

2. That teachers participate actively in the classroom discussion and role playing and not use this time to correct papers or leave the room for a personal recess.

These responsibilities are presented with the understanding that both the teacher and the student will learn, change ideas and assist with the review after the officer leaves.

The third point is the orientation of the individual school PTA. Each PTA is advised that the school will have the program. If a preview of the material is requested, the crime prevention officer will meet with the PTA to present the entire curriculum and answer questions. This is another time when modifications are voiced and, if accepted, placed into the curriculum.

It should be stressed that the position of the police department in relation to the materials presented will never be diluted. As additional information and materials come forth from different segments of the community, they will be blended into the police curriculum to give an overall enhancement of the original goals of Student Awareness.

Once the preliminary reviews are completed, the Student Awareness program is ready to be implemented. At the beginning of the year in the introduction of each session, the crime prevention officer and students enter into a "contract" which has three considerations:

1. While the police officer is in the classroom and talking, no one else talks.

2. If someone in the class has something to say, he will wait until the police officer stops speaking and then raise his/her hand.

3. There will be no fooling around whenever the officer or another person has the floor.

Developing this contractual obligation between police and students reinforces the teaching of the students' responsibility. It shows honesty and fairness are on-going characteristics.

The actual presentation of materials has a defined time frame for instruction. This time frame fits according to the age group, academic level and subject matter of the students present. The time frame for kindergarten and special education classes is 30 minutes. First, second and third grades have a 40 minute allocation, and fourth and fifth grades, a 45 minute period. This takes into account the students' attention span as well as review by the police officer in answering questions from students and teachers. A short period of story telling is a positive aspect of all learning experiences.

PROGRAMS CONTINUATION

The Branford Department of Police Services' Crime Prevention Unit received letters, inquiries, recommendations of support for the continuation of Student Awareness, not only from people in Branford, but from other communities throughout Connecticut. This has led to the expansion of the programs from the initial program in 1976 in two schools reaching 400 students, to the level exceeding 2,000 students.

To adequately maintain a structured program, ongoing curriculum and the proper time frame, Chief of Police William F. Holohan allowed the crime prevention officer to extend himself in excess of 75 days throughout the academic year for successful implementation of the program.

PROGRAM MODIFICATIONS

As times changed from 1976 to present, so must police functions. The curriculum areas are reviewed and expanded to take in other topics. The police and their role in the community have expanded to address extortion problems wherein class bullies requested snacks or money from less physical children. Also considered is blackmailing of students who engaged in one or two minor acts and are coerced into committing more serious acts. Again peer pressure and accepted values are stressed and expounded upon through role playing.

The topic of vandalism includes new films and concepts not only of money motive, but also of physical injury when people are victims. School bus and bicycle safety are brought to the level of discussion on areas of death and serious injuries which relates on a one-to-one basis. News clippings and television news commentaries are presented to show the reality of this serious topic.

Drugs and poisons seem to be one subject everyone is really concerned about and allotted time never seems sufficient. Therefore, half the class period results in lecturing, films, other graphics and demonstrations. The last half of the class period is allotted to questions and answers, some of which are embarrassing for students to ask. Through the excellent exchange between teachers, students and the police, this exchange is made possible.

The entire program is designed to increase the students' awareness concerning crime and peer pressure. Any viable educational program must have the students' input and expressions. It is felt that an art contest is one vehicle to increase the students' awareness and enhance the interpretation and expression of what was learned.

The art contest is designed for all grade levels, K-5 as well as special education classes. The only rule is focus on one of the subject matters. Winners of the art contest are judged by the teaching administrators, the crime prevention officer and the Chief of Police.

Each contest winner in the different categories had his/her picture as well as the art work shown in The Branford Review. In an art exhibit at the Branford Community Center, the artist's picture, art work and a three by five card of information on the artist would be on exhibit.

During the program's first year high school students participated in a slogan contest. The student who submitted the winning slogan, "Don't let the public be railroaded, help stop crime in its tracks", was issued a $25 savings bond. Again, we were looking for total cooperation throughout the community and different levels of education.

As the Student Awareness Program further develops, it is concerned with all levels of support from school administrators, teachers, parents, the community, as well as the police department directing efforts to the student.

Continued support from all areas in the community will have a positive effect on the individual student and the generations of students to follow. Student Awareness, as one of the many youth development programs, will foster a cooperative and unified community throughout Branford.●

## AN INSIDER'S VIEW OF PUBLIC WELFARE

### HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. HILER. Mr. Speaker, in recent months, the House Committee on Ways and Means has held "field hearings" for the purpose of investigating the effects of the budget reductions. I attended the hearing that was held in Indianapolis and it struck me that the committee's education was not complete; that is, the committee did not have the advantage of testimony from those who have seen the waste and abuse that permeate our country's public welfare system.

As a means of correcting this shortcoming, I am pleased to submit for the RECORD the text of a letter from Miss Elizabeth Samkowski to the Honorable DAN ROSTENKOWSKI. Miss Samkowski is director of the Marion County, Ind., Department of Public Welfare, which services the Indianapolis metropolitan area. Her comments are very revealing, and I am confident that my colleagues on the Ways and Means Committee and all House Members will want to take careful note of this insider's view of public welfare.

TEXT OF THE LETTER FROM MISS SAMKOWSKI TO HONORABLE DAN ROSTENKOWSKI

I recently attended the Hearing of the House Ways and Means Committee in Indianapolis. As director of the largest welfare department in the state, with an annual budget of $41 million, in addition to dispensing over $45 million in food stamps last year, I feel qualified to make a few observations about our welfare programs. Even more significant, after talking with dozens of our caseworkers who are in the front ranks, I discovered that most of them share my views. There has been a significant change in the attitude of caseworkers regarding welfare in the past few years. Almost without exception, they are in favor of the administration's attempt to cut back entitlement programs, and their only criticism is that we have not gone far enough.

The most recent changes in AFDC resulted in about twelve percent of our cases being discontinued, with a dollar reduction of less than seven percent. Those families who were discontinued were ones in which the recipients were employed, or there was a substantial income from other sources which had previously been disregarded in determining eligibility. Many employed mothers who were receiving AFDC immediately quit their jobs or chose to work less hours so they could continue to get welfare. There is something inherently wrong with a system which allows individuals to have a choice between living off welfare or supporting themselves.

Our caseworkers are seeing AFDC mothers who are not working simply because they have children under six years of age. They are living a comfortable life with not only a monthly welfare check, but a plethora of additional benefits which are not available to the ordinary taxpaying citizen: free Food Stamps, free comprehensive medical services, including transportation, free child care, government subsidized housing, low energy assistance, free school lunches, and free legal services. Our employees are not so fortunate. Many of them are finding it necessary to work a second job just to meet increasing expenses. Our caseworkers return to work following maternal leave as quickly as the doctor will release them; they cannot afford to stay home until their children reach six. I have heard them say they cannot afford to have more than one or two children, yet they are working with AFDC mothers who get a "bonus" for each additional child.

Most Americans are willing to help families who are totaly unable to provide for themselves. However, welfare has become a way of life for too many people who have no initiative to do anything except wait for their monthly welfare check. This attitude was dramatically exemplified in a recent incident involving one of our caseworkers. During a home visit, a small child asked her recipient mother who the caseworker was. The mother replied, "Oh, that lady is my caseworker. When you grow up, you will have one, too." I submit this is not the American way and is a sad commentary on our society. Rather than encouraging families to be independent, our system has resulted in the welfare rolls increasing at an alarming rate. Too many AFDC families are far better off financially than the two-parent working family who is supporting themselves and paying taxes to support those who prefer a different way of life.

I enthusiastically endorse the administration's proposal to return to the States the administration and control of entitlement programs. Who knows better than the local citizenry who are the truly needy persons in a community? States and local governments can do a far better job of defining priorities and targeting areas of needs than a paternalistic government working through the morass of rules and regulations established by a bloated bureaucracy that is out of touch with realities of a program. The reduction in administrative overhead would in itself be significant.

Our present system of public welfare has fostered illegitimacy, dependency, erosion of family strengths, and perpetuated a class of non-productive citizens who have no interest or motivation for altering their way of life. It is time for a change.●

## REFORMING THE PRESENT U.S. CRIMINAL CODE

### HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. SENSENBRENNER. Mr. Speaker, today, I, along with the other two Republican members of the Subcommittee on Criminal Justice, introduced legislation to reform the present U.S. Criminal Code.

This bill, with the exception of the habeas corpus provisions, is presently being considered by the Subcommittee on Criminal Justice as an amendment in the nature of a substitute.

This legislation, while similar in some respects to H.R. 1647, which passed the House Judiciary Committee last year, is different in 18 major respects.

The differences are as follows:

EXPLANATION OF THE MAJOR DIFFERENCES BETWEEN H.R. 1647 AND H.R. 5679

(1) DEATH PENALTY

The amendment contains a chapter 38 which provides a constitutional mechanism for imposition of the death penalty. The chapter is patterned to some extent upon S. 114 (DeConcini) which has been the subject of extensive hearings in the Senate. It lists four capital offenses: murder, espionage, treason, and aircraft piracy in which death results, all of which are capital offenses under current law. The chapter provides that a sentencing hearing will be held upon conviction for a capital offense which seeks to determine the existence of aggravating or mitigating circumstances which warrant more or less serious punishment.

(2) EXTORTION (SEC. 2522)

The amendment overrules the *U.S.* v. *Enmons* decision to the extent that the extortionate conduct referred to in that case constitutes a state or federal felony punishable by an imprisonment penalty of two or more years. It is based upon legislation proposed by Mr. Hall during this Congress. H.R. 1647 maintains *Enmons.*

(3) GOVERNMENT APPEAL OF SENTENCE

In chapter 41, H.R. 1647 provides for defendant-only appeal of sentence. The amendment would provide the government with a similar right if the trial judge's sentence falls below that provided for in the sentencing guidelines. The government would, however, have a shorter time to file notice of appeal.

(4) PAROLE

The amendment would phase out parole five years from the effective date of the sentencing guidelines except for those who were sentenced under the old system.

(5) FACILITATION

The amendment contans a facilitation section (Sec. 505) which punishes those who provide substantial assistance for the commission of specifically designated serious offenses.

(6) SOLICITATION

The amendment contains a solicitation section (Sec. 1103) which applies to those who encourage the commission of specifically designated serious offenses.

(7) PINKERTON DOCTRINE

The amendment continues the so-called "Pinkerton doctrine" (Sec. 504) enunciated by Justice Douglas in *Pinkerton* v. *U.S.*, 328 U.S. 640, which holds co-conspiratiors liable for the substantive offenses committed by their confederates if such offfenses were reasonably foreseeable.

4(8) SPOUSAL IMMUNITY IN RAPE

In Section 2331 (aggravated criminal sexual conduct), the amendment continues the so-called "spousal immunity" provision from the current rape statute, while H.R. 1647 abolishes it.

(9) EXPUNGEMENT

The amendment deletes Section 8123 contained in H.R. 1647 which provides a mechanism for certain convicted persons to have the record of their convictions expunged.

(10) CRIMES AGAINST JUSTICES OF THE SUPREME COURT AND CABINET OFFICERS

The amendment extends jurisdiction under the murder, maiming and kidnapping sections to include offenses against certain high-ranking federal officials not covered under current law, including Supreme Court justices, cabinet and deputy cabinet officers and high ranking personnel in the Executive Office of the President or Vice-President.

(11) PROSTITUTION

The amendment carries forward a section somewhat comparable to the current Mann Act entitled "Engaging in a Prostitution Business" (Sec. 2745), which is not contained in H.R. 1647.

(12) STATUTORY RAPE

The amendment carries forward a section based upon current federal statutory rape law entitled "Sexual Abuse of a Minor" (Sec. 2746). H.R. 1647 provides generally that the offender must be at least five years older than the victim unless the victim is under the age of 12.

(13) TERMS OF IMPRISONMENT

The amendment raises the terms of imprisonment to 16 years for Class B felonies, 8 years for Class C, 4 years for Class D and 2 years for Class E felonies.

(14) USE OF OBSCENITY ON ENVELOPES

The amendment reenacts the prohibition against obscene language on envelopes from 18 U.S.C. 1463.

(15) TRANSFER OF ABORTIFACIENTS

The amendment retains in slightly modified form the current law prohibitions against the transfer of abortion instruments. H.R. 1647 does not.

(16) BAIL REFORM

The amendment contains in chapter 63 bail reform provisions which permit consideration of danger to the community and authorizes preventive detention under limited circumstances with substantial safeguards for the rights of the accused. The amendment also provides for an enhanced penalty for those committing a crime while on bail (Sec. 1715). The amendment is patterned after S. 1554 (Thurmond) and follows from the recommendations of the Attorney General's Advisory Task Force on Violent Crime.

(17) ORGANIZATIONAL LIABILITY

The amendment makes it clear in Section 502 that an organization becomes liable for the conduct of an agent only if the latter is acting within his "actual or implied" authority from the organization. H.R. 1647 does not clearly specify what type of authority it refers to.

(18) HABEAS CORPUS PROCEEDINGS

The amendment would:

a. require all federal habeas corpus evidentiary hearings to be conducted by a United States district judge rather than a federal magistrate,

b. codify the decision of Wainwright v. Sykes to bar litigation of issues not properly raised in state courts, absent showings of cause and actual prejudice,

c. establish reasonable time limits within which a federal habeas corpus action must be commenced, and

d. codify the decision of Sumner v. Mata barring federal habeas corpus evidentiary hearings where the record in the state court provides a factual basis for the state court findings and such record was made under circumstances affording the habeas petitioner a full and fair hearing on the factual issue.●

## TAXPAYERS LIABILITY INDEX

### HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. COLLINS of Texas. Mr. Speaker, in my mail I received a statement from the National Taxpayers Union. This group had prepared their analysis of the Taxpayers Liability Index.

As Congress talks about the budget, we should realize that there are additional liabilities and contingencies that face us as financial responsibilities.

The National Taxpayers Union begins with the debt at $1 trillion and then schedules other liabilities amounting to $10 trillion.

The largest liability is the commitment for future pension programs. Congress must face up to this responsibility and always maintain the social security fund as a separate and independent fund. Since social security taxes are now requiring 7 percent of an employees salary and 7 percent of an employers matching fund, the Government is now receiving nearly 14 percent of the basic payroll of working people. We must keep this social security fund intact and separate. Furthermore, Congress must not add other groups as beneficiaries, as the basic responsibility is to provide for retirement for the senior citizens.

I was interested in the taxpayers estimate of liability. Maybe their estimate is too large. But we should all bear in mind the contingent liability.

Here are the National Taxpayers Union figures.

[In billion dollars]

| Debt or liability item | Gross cost |
|---|---|
| Public debt | 971 |
| Accounts payable | 129 |
| Undelivered orders | 452 |
| Long term contracts | 20 |
| Loan and credit guarantees | 321 |
| Insurance commitments | 2,219 |
| Annuity programs | 6,900 |
| Unadjudicated claims, international commitments, and other financial obligations | 46 |
| Total | 11,058 |

## THE HOMEOWNERS OPPORTUNITY PARTICIPATION ACT (HOPE)

### HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. O'BRIEN. Mr. Speaker, today I am introducing a bill entitled "Homeowners Opportunity Participation Act" (HOPE) which will provide a much-needed lift for the ailing housing industry.

My bill is similar to BILL EMERSON'S homeowner equity loan program (HELP, H.R. 5150), of which I am a cosponsor, but proposes a somewhat broader program. My new bill, which I would like my colleagues to support, would—

Make all credit-worthy home buyers eligible to purchase reasonable cost homes for below market interest rates instead of just first-time home buyers as in H.R. 5150.

Make newly constructed homes eligible for financing instead of only those homes in builders' inventories as proposed in H.R. 5150.

Provide $1 billion for 1 year from previously authorized but unused borrowing authority from HUD's public housing loan fund; H.R. 5150 would use $500 million from the Government National Mortgage Association's special assistance fund.

The housing industry is stagnated at rock bottom. Recent 1982 projections indicated fewer housing starts than in 1981—which was the lowest production year since 1946. The National Association of Homebuilders is projecting 1,073,000 housing starts for 1982, down from the 1,103,000 units started in 1981. A more dismal forecast is disclosed in last week's Census Bureau report which in January projected 894,000 units for the year under its seasonally adjusted rating schedule. This is the sixth month in a row that anticipated starts for the year were estimated at less than 1 million units. Additionally, new home sales for the past 7 months averaged only 433,000 units—one-half of a normal or reasonable sales period.

As the housing industry situation continues to decline, its ripple effects have an even more devasting effect on the economy. The unemployment levels heighten and layoffs take place in all other industries somewhat dependent on housing. For instance, General Electric recently announced plans for temporary layoffs affecting 9,200 workers. These employees work on dishwasher, refrigerator, and laundry appliance production lines—items used in new homes.

We all know, that to really bring the housing industry back on its feet, in-

terest rates need to be lowered, budget deficits brought down. But it is critical and important that an emergency stimulus program be enacted on a temporary basis to at the very least, keep the homebuilding and related depressed industries afloat.

Essentially, this means more jobs, bringing in more revenue to the Government and means of generating economic productivity in a stagnated economy as well as avoidance of the loss of Government revenue through increased unemployment compensation payments. Additionally, funds used to provide temporary assistance to homeowners would be repaid in full to the Federal Government.

My proposal offers not only help but hope for our country. I think you will agree after reviewing the following detailed information about this bill.

First, program eligibility is limited to credit worthy homebuyers.

Second, eligible homes are limited to proposed newly constructed, partially constructed, and unsold residential properties (single family, condo, or co-ops). A priority is established for lower cost basic homes ranging from $50,000 to a maximum of $90,000.

Third, mortgage financing may be provided through FHA (sec. 203(b) and 245), VA, private or conventional methods.

Fourth, maximum mortgage limits are the same as under the FHA section 203(b) program ($67,500 to $90,000) with terms for up to 30 years and a 5-percent downpayment requirement.

Fifth, the interest rate for the homebuyer is established and based upon income necessary to qualify for the loan as determined by the Government National Mortgage Association (GNMA) with such fixed rate not to be lower than 12 percent.

Sixth, the total cost of the Federal contribution for interest or principal payment reductions will be retained and recaptured for repayment to GNMA out of the proceeds of equity appreciation upon the sale disposition, or refinancing of the property.

Seventh, GNMA will provide a one time front-end payment up to a maximum of $6,000 on behalf of a qualified homebuyer to an approved financial institution for the purpose of reducing interest or principal payments.

Eighth, the program is of a temporary and short-term nature and will expire on September 30, 1983.

Ninth, the Federal funding of $1,000,000,000 for providing temporary loan repayment assistance to qualified homebuyers does not increase the fiscal year 1982 Federal budget due to the fact that such funds are provided through the reprograming and reuse of previously authorized and appropriated HUD public housing loan fund borrowing authority and for which use all funds will be repaid to the Federal Government.

Tenth, GNMA will allocate funds on a fair share State or regional basis in accordance with data reflecting unsold inventory and building permits issued for newly constructed units.

Eleventh, preference for assistance is made, but not limited, to small-size homebuilders experiencing depressed operating conditions. Homes must be for permanent full-time residence of the buyer.

Twelve, an estimated 200,000 newly constructed and/or unsold inventory homes may be aided under this program during its full year of operation.●

## THE STEEL CAUCUS IN 1981: PROGRESS, NEW CHALLENGES

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. GAYDOS. Mr. Speaker, as chairman of the Congressional Steel Caucus, I offer the following report on our activities to the House.

The caucus did landmark work toward our goal of revitalizing the steel industry in the first half of the 97th Congress, but an alarming rise in apparently dumped or subsidized imports in 1981 threatened to topple what we are trying to rebuild—high employment and soundness in the Nation's basic industry.

The first session was noteworthy for improvements in the tax and regulatory climates affecting the American steel industry and its workers. The successes included the environmental "stretchout" bill and accelerated depreciation of steelmaking equipment, which should have sparked the modernization. But desired revival was delayed by a new problem, the trade crisis, which has taken a high priority with the caucus.

Outside the area of legislation, the caucus established communication with the new administration early in the first session. We conveyed our concern about trade, tax and regulatory issues affecting steel and its workers. With the administration's decision to discontinue the Steel Tripartite Advisory Committee, the Caucus expanded its efforts to keep an open dialog with the industry, the union, and the administration on steel issues.

Through executive committee sessions, testimony before various committees of Congress and special orders, the caucus focused national attention on critical steel issues including:

The impact of unfair trading practices on domestic steel growth;

The need for faster depreciation of steel equipment to stimulate investment for modernization;

The need for extension of the Clean Air Act compliance deadlines on a case-by-case basis; and

Stricter enforcement of the "trigger price mechanism" in dealing with steel imports.

The next 6 to 9 months will be a critical period in the history of this vital American industry as the Commerce Department and other agencies process over 100 trade petitions involving steel imports. The caucus will closely monitor the progress of the cases and will continue to provide a forum for discussing steel issues.

Mr. Speaker, to fully report the activities of the caucus in the 1st session of the 97th Congress, I must touch on conditions as they stood in 1980.

Toward the end of the 96th Congress, the Congressional Steel Caucus made a number of recommendations for changes in trade, tax, and regulatory policy designed to contribute to the revitalization of the domestic steel industry and an expansion of jobs for its workers.

Based in part on the findings of the Steel Tripartite Advisory Committee, members of the caucus urged consideration of remedial legislation to address capital formation and regulatory problems affecting the industry. In addition, the caucus urged policy adjustments to deal with recurring problems in the administration of the trigger price mechanism (TPM).

In the first 7 months of the 97th Congress, the House and Senate acted on two key steel issues which may have marked a turning point in the effort to reset the course for positive growth in the domestic steel industry; they were capital formation and environmental policy.

#### CAPITAL FORMATION INCENTIVES

Before the House Ways and Means Committee, members of the caucus described the deteriorating condition of the domestic steel industry and the need to provide proper incentives to rebuild it. Citing comparative statistics for tax policies implemented by our trading partners, the chairman and other members directed attention to countries such as Sweden, Italy, and France where 75 percent of capital expenditures are recovered in 3 years compared to 57 percent in the United States.

The members of the caucus advocated faster writeoffs for steel equipment and the targeting of additional tax credits for investment in economically depressed regions.

In addition, support was expressed for the Steel Tripartite Advisory Committee's recommendation of some type of steel related refundable investment tax credit to help the industry overcome its severe capital formation shortage—estimated to be nearly $2 billion per year over the next 5 years.

ENVIRONMENTAL POLICY CHANGES

Early in the session, the caucus reaffirmed its commitment to the environment while recognizing the unique compliance problems of the domestic steel industry. In keeping with the recommendations of the Steel Tripartite Advisory Committee (STAC), a number of members introduced and supported legislation to extend the deadline for the steel industry to comply with the Clean Air Act.

During its proceedings, the STAC acknowledged that the steel industry faces a unique problem in terms of pollution control. By the nature of its production processes, the industry generates very large amounts of air and water pollution. To control this pollution and modernize at the same time will require large capital expenditures which the industry may not be able to accomplish on the present compliance timetable.

Based on these serious economic and environmental concerns, the STAC recommended legislation to allow the EPA Administrator to grant a discretionary case-by-case basis stretchout—for up to 3 years—of the deadline for compliance with the requirements of the Clean Air Act. This legislation passed both Houses of Congress and was signed into law on July 17, 1981.

The Caucus wholeheartedly supported this legislation which would encourage and enable the steel industry to increase capital formation for compliance by fostering modernization and technological development. This law will insure that there will be environmental compliance by requiring strict schedules spelled out in compliance orders and enforced by the courts. Other concerns included:

STEEL TRADE DEVELOPMENTS

CARBON STEEL TRADE

At the end of the 96th Congress, the steel caucus concurred with the trade policy recommendations made by the Steel Tripartite Advisory Committee which called for:

Full and prompt enforcement of all U.S. trade laws in conformance with congressional intent; and

A strengthened and well administered trigger price mechanism (TPM).

At the beginning of the 97th Congress, the newly revised TPM offered considerable promise through the maintenance of trigger price levels reflective of the Japanese costs of production, a more precise preclearance procedure, improved product coverage and expedited investigations of import volumes of both carbon and specialty steels for evidence of dumped or subsidized steel when imports surged above a certain percentage level.

However, by August 1981, imports of foreign steel mill products totaled 2.23 million net tons. This figure marked the fifth consecutive month that imports had risen in 1981 and the tonnage represented 25 percent of the American market supply—an historic high for any month. (Total imports of steel mill products for 1981 reached 19.9 million net tons compared with 15.5 million net tons in 1980—a 29 percent increase. The record high tonnage was 21.1 million net tons in 1978. Imports in 1981 took a 19.1 percent share of the domestic market compared with 16.3 percent in 1980. In the last 3 months of the year, imports captured 20 to 26 percent of the American market.)

By late in the year, it was clear that the excessively high rate of imports threatened to undermine the progress made in the first 6 months with changes in tax and regulatory policy. To members of the Caucus and others it became apparent that the integrity of the TPM as a device for reducing the volume of potentially dumped or subsidized imports was being severely tested.

In a series of hearings with the industry, the Caucus was advised that although the administration had attempted to vigorously enforce the TPM, European steel producers had apparently been engaging in unfair trading practices which had rendered the device useless. The industry described reports from the marketplace which showed significant tonnage entering the United States below trigger price levels as well as widespread evasion of the system through off-shore procurement of steel below trigger price levels. (On November 19, 1981, and December 9 and 10, 1981, the Caucus conducted Special Orders on the floor of the House to focus national attention on these trade issues.)

In communications to the administration, the Steel Caucus expressed its concern that increasing unfairly traded steel imports were undermining the industry efforts to take advantage of recent changes in tax and regulatory policy. The Caucus warned of the danger of unrestricted steel imports and recommended rapid enforcement of the TPM and "import surge" devices.

After careful review of import surge levels above the 15.2-percent penetration level, the Commerce Department initiated seven antidumping and countervailing duty petitions on November 18, 1981. By December 23, 1981, the U.S. International Trade Commission had made affirmative preliminary determinations of injury on five cases.

However, due to the scale of alleged subsidization, domestic steel producers felt compelled to file additional petitions totaling approximately 100 on January 11, 1982. The Commerce Department formally accepted these cases on February 1, 1982, and simultaneously suspended the trigger price mechanism for an indefinite period.

SPECIALTY STEEL TRADE

On January 8, 1981, the Department of Commerce established a "surge mechanism" to monitor specialty steel products for import surges caused by dumping or subsidization. Commerce observed that monitoring specialty steel imports for surges was more appropriate and technically feasible than extending trigger price coverage of these products.

In April 1981, Commerce launched its first formal investigation into an apparent import surge of specialty steel. It was determined that imports primarily from South Korea, West Germany, France, Japan, and Austria constituted a surge, defined as an increase in imports' share of domestic consumption above the average level of the past 10 years. (In 1980, imports of stainless steel bars equaled 21.6 percent of domestic consumption, compared with an average of 17.7 percent over the last decade. Imports of alloy tool constituted 28.4 percent of domestic consumption in 1980, compared with a 10-year average of 22 percent.)

Despite such efforts, by July, imports of tool steel equaled 37.7 percent of apparent consumption. For the third quarter, stainless sheet and strip imports were 11.2 percent of the market; stainless bars reached 26.6 percent; stainless wire rod imports reached 47 percent and alloy tool steel hit nearly 40 percent penetration.

Faced with subsidized imports sold at as much as 54 percent below U.S. prices and apparently below the cost of production, domestic specialty steel producers petitioned for relief under section 301 of the Trade Act of 1974. The Congressional Steel Caucus expressed its full support of the domestic industry's petition and urged the administration to take expeditious action to restrict the flow of unfairly traded specialty steel imports.

Mr. Speaker, I conclude this report to the House by offering for the RECORD the list of caucus members and an accounting of its financial operation:

CONGRESSIONAL STEEL CAUCUS MEMBERSHIP, 97TH CONGRESS, FIRST SESSION

Joseph Addabbo, Frank Annunzio, Douglas Applegate, John Ashbrook, Eugene Atkinson, Les AuCoin, Don Bailey, Adam Benjamin, Jr., Tom Bevill, William Brodhead, Clarence Brown, George Brown, James Broyhill, Don Clausen, William Clay, William Clinger, E. Thomas Coleman, Cardiss Collins, John Conyers, Baltasar Corrada, Lawrence Coughlin, James K. Coyne, William J. Coyne, Dan Daniel, Robert Davis, Edward Derwinski, John Dingell, John Duncan, Dennis E. Eckart, Robert Edgar, Allen Ertel, David Evans, John G. Fary, Vic Fazio, Paul Findley, Floyd Fithian, Ronnie Flippo, William Ford, L. H. Fountain, Joseph Gaydos, Sam Gejdenson, Benjamin Gilman, and William Goodling.

Willis Gradison, Sam Hall, Jr., James V. Hansen, John Hiler, Elwood Hillis, Ken Holland, Jerry Huckaby, James Jones, Thomas Kindness, Ray Kogovsek, John LaFalce, Tom Lantos, John LeBoutillier, Gary Lee, Jerry Lewis, Clarence Long, Thomas Luken, Stanley Lundine, Robert McClory, Joseph

McDade, Bob McEwen, Marc Marks, Dan Marriott, James Martin, Robert Michel, Clarence Miller, George Miller, Barbara Mikulski, Donald Mitchell, Robert Mollohan, G. V. Montgomery, Ronald Mottl, Austin Murphy, John Murtha, John Myers, John Napier, William Natcher, James Nelligan, Bill Nichols, Henry Nowak, Mary Rose Oakar, James Oberstar, and George O'Brien.

Thomas P. O'Neill, Donald Pease, Carl Perkins, Melvin Price, Carl Pursell, James Quillen, Nick Joe Rahall, Tom Railsback, Ralph Regula, Don Ritter, Robert Roe, Charles Rose, Dan Rostenkowski, Marty Russo, Jim Santini, Gus Savage, James Scheuer, Richard Schulze, John Seiberling, Philip Sharp, Richard Shelby, Bud Shuster, Paul Simon, Albert Lee Smith, Joseph Smith, J. William Stanton, David M. Staton, Louis Stokes, Samuel Stratton, Gene Taylor, Morris Udall, Bruce Vento, Doug Walgren, Robert Walker, James Weaver, Richard White, Jamie L. Whitten, Lyle Williams, Charles Wilson, Ron Wyden, Gus Yatron, C. W. Young, Clement Zablocki, and Leo Zeferetti.

[Annual Report]

*Fund balance statement*

| | |
|---|---|
| Balance forward as of 9/30/81 plus adjustment | $10,109.15 |
| Total revenues—clerk hire, dues and donations | 11,542.34 |
| Total | 21,651.49 |
| Less Expenses: | |
| October 1981 | 4,222.73 |
| November 1981 | 4,059.80 |
| December 1981 | 4,107.66 |
| Remainder | 9,261.30 |
| Interest deposits | 345.41 |
| Unexpended revenues as of Dec. 31, 1981 | 9,606.71 |

[Annual Report]

*Cumulative statement of expenses*

| | |
|---|---|
| Salaries | $43,332.83 |
| Postage | 212.67 |
| Stationery—Donations, Mr. Bevill | 459.65 |
| Telephone | 659.87 |
| Publications | 465.95 |
| Equipment | 1,947.00 |
| Printing | 471.10 |
| Miscellaneous | 7,039.16 |
| Total expenses for the year 1981 | 54,588.23 |

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## ORANGE COUNTY HUMAN RELATIONS COMMISSION

### HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. PATTERSON. Mr. Speaker, with pride, I invite my colleagues to join me in recognizing the 11th anniversary of the Orange County Human Relations Commission. As the legislator for the 38th Congressional District which encompasses 9 of the county's 26 cities, I feel that the commission stands as an essential part of the many communities it has served. I am especially aware that constituents in the 38th District have found it necessary to seek assistance from, and work with the commission on a daily basis. This cooperative partnership has lead to a betterment in the quality of their lives, their neighborhoods, their schools, and their community as a whole.

In these times of economic hardship, the complexity of our social problems has increased. That is why it is so reassuring to know that the rights of the disadvantaged are still being advocated. Such is the charge of the commission. This is in keeping with the original vision of its role as set forth by the Orange County Board of Supervisors in 1971. In response to public need, the goals identified were "to establish an impartial agency to deal with intergroup tensions; to foster mutual understanding and respect among all citizens of Orange County; to promote measures to eliminate prejudice, intolerance, and discrimination against any individual or group because of race, religion, national origin, sex, age, or cultural background.

To illustrate how successful the commission has been, I would like to highlight just a few among many achievements. One of its five areas of concentration is housing. As you may know, Orange County is plagued by a shortage of affordable housing. This has prompted the commission to work closely with the board of supervisors, agencies, and the private sector to create an inclusionary housing program now in effect. Neighborhood preservation and the protection of tenants from unsafe building code violations are two other projects it has initiated. Cooperative problem solving was shown during a housing conference prepared by the commission. Brought together were chambers of commerce, the league of women voters, and others to address the county's housing needs. As a member of the House of Representatives Subcommittee on Housing and Community Development, I am sensitive to the importance of pooling existing resources from many sectors of the community, just as the commission has done.

In other areas, a decrease in student truancy was achieved by the education committee. In various cities, the police/community relations committee has hosted inservice training to officers for the purpose of building a clearer understanding of their communities. The health committee won renewal of a county contract to preserve vital medical services for our many indigent.

These and other examples prove how tangible results can flow from the hard work of 11 commissioners, a 6-member staff, and a countless number of volunteers. Mr. Speaker, I now ask my colleagues to join with me in commending the Orange County Human Relations Commission for 11 years of dedication and service.●

## INCENTIVE FOR NOT WORKING IS FOUND IN STUDY OF BUDGET

### HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. SCHUMER. Mr. Speaker, the Reagan administration repeatedly professes its desire to reduce the size of the welfare rolls, but the Reagan budget actually penalizes the working poor for working. Because of tremendous cuts in food stamps, medicaid, and energy assistance, many working poor would receive a higher monthly income if they were to cease working and depend solely on Federal assistance. This hypocritical element of the Reagan budget, and its effects, are aptly described in the following New York Times article of February 25:

INCENTIVE FOR NOT WORKING IS FOUND IN STUDY OF BUDGET

(By Robert Pear)

WASHINGTON, FEB. 24.—Poor people who choose to work would have less disposable income than if they depended entirely on Federal aid under President Reagan's proposed budget for the next fiscal year, according to a new study by the University of Chicago.

The study, issued today, found that the proposed cutbacks in welfare and food stamp benefits would accentuate the "work disincentives" introduced into the Federal system last year.

Last year's changes reduced the income differential between working and nonworking welfare recipients, the study said, but the changes proposed this month by Mr. Reagan would make it clearly more profitable for most poor people to rely entirely on welfare and food stamps than to work at the low-wage jobs available to them.

Thus, it said, the changes would penalize welfare recipients for any work effort by sharply reducing the amount of benefits they received while they were employed.

SITUATION IN NEW YORK

For example, in New York State, a three-person family with no earnings would get, on the average, $506 a month in welfare, food stamps and energy assistance under Mr. Reagan's proposals. Because of such work-related expenses as child care, the family would end up with $40 less in monthly disposable income if the mother took a job in which the gross pay was $486 a month, the average for working welfare recipents in the state. The family's income, according to the study, would drop to 79 percent of the poverty standard, from 86 percent.

The Office of Management and Budget defines poverty for a family of three as an income of less than $7,070 a year.

"The systematic reduction in work incentives hits hardest at families at or near the minimum wage whose work efforts should be supported rather than discouraged," the study said. For many of the 600,000 welfare

families who have some outside earnings, "work may no longer be justified by its rewards," the study added.

The study, by the university's Center for the Study of Social Policy, is the most comprehensive state-by-state analysis of what happens to individual families as a result of the welfare cuts enacted last year and proposed this year.

Monthly Disposable Income Of Working and Nonworking Mothers In 10 States

[Income for working mothers is based on the average earnings level. Income for both working and nonworking mothers may include aid to families with dependent children, food stamps, and energy assistance. Figures are based on levels for an adult with 2 children under the rules proposed in President Reagan's 1983 budget]

| | Working | Nonworking | Difference |
|---|---|---|---|
| California | $479 | $561 | $82 |
| Connecticut | 470 | 509 | 39 |
| Illinois | 420 | 428 | 8 |
| Massachusetts | 459 | 478 | 19 |
| Michigan | 482 | 489 | 7 |
| New Jersey | 451 | 466 | 15 |
| New York | 468 | 508 | 40 |
| Ohio | 393 | 403 | 10 |
| Pennsylvania | 455 | 439 | +16 |
| Wisconsin | 467 | 539 | 72 |

Source: The University of Chicago Center for the Study of Social Policy.

The study differed from similar analyses in its use of a computer to calculate the effects of the Reagan proposals on families at different income levels in different states. The principal author of the study, Thomas C. W. Joe, was a welfare official in the Nixon Administration. The center has a reputation among social scientists as being one of the most reliable sources of nonpartisan information on welfare matters.

NEED FOR SELF-RESPECT

Reagan Administration officials have acknowledged that the President's proposals for cutting welfare, food stamps and other benefits might discourage work effort by some poor people. However, they say the "working poor," as the most affluent sector of the welfare population, can best afford the reduction in benefits. In addition, they say poor people sometimes choose to work to enhance their self-respect or to get a better job in the future, even though the immediate financial rewards are negligible.

Administration officials see welfare not as an income supplement for the working poor, but as a "safety net" for those, such as the elderly and disabled, who cannot work.

Mr. Reagan's budget for the fiscal year 1983, which begins Oct. 1, proposes to deny welfare benefits to any parent who refuses employment or voluntarily quits work. The stated purpose of this change is to "discourage reductions in work effort."

ACTION IS CALLED COUNTERPRODUCTIVE

The Chicago study describes the reduction of work incentives as "counterproductive" because the Government may ultimately have to increase welfare payments to a mother who curtails her work effort.

For example, it says, in New York, the Federal Government formerly paid $143 a month in Aid to Families with Dependent Children and $40 in food stamps, a total of $183, to a working welfare mother with average earnings.

"If this mother decides to go on welfare full time, because she will have $40 more per month than if she continues to work," the study says, "the Federal Government's cost in A.F.D.C. climbs to $204 per month and food stamps rise to $84, for a total of $288, or $105 more than when she was working."

The study understates the loss of Federal benefits for many working people because it does not take account of Medicaid, the medical assistance program for the poor. People usually lose Medicaid when they are forced off the welfare rolls, and the value of Medicaid benefits to a woman with children almost always exceeds the cash value of welfare payments.

The cumulative effect of the changes made last year and proposed this year is to increase the "marginal tax rate" on income earned by welfare recipients. This rate, also known as the benefit reduction rate, measures the loss of benefits for each additional dollar of income earned by a welfare mother.

Congress lowered marginal tax rates for more affluent taxpayers last year after hearing "supply side" economists argue that such reductions would increase incentives for work, savings and investment.

Mr. Joe's study took issue with Mr. Reagan's recent statement that people who were "totally dependent on the Government for help" would not be harmed by his budget cuts. Mr. Reagan's budget proposes to count energy assistance as income in computing both welfare grants and food stamp allotments. "In every state, these provisions reduce the disposable incomes of A.F.D.C. recipients unable to work," the study said.●

## REMEMBER THE RUDINS

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DORNAN of California. Mr. Speaker, I would like to bring to the attention of my colleagues in Congress, in fact, my fellow Americans, the plight of Berta Isaakovna and Yakov Mikhailovich Rudin, Jewish refuseniks who have been denied emigration from the Soviet Union since 1979.

Berta, 57, is a physician and Yakov, 55, is a marine engineer. They are presently living in Odessa, the Ukraine, U.S.S.R. Both have been fired from their jobs and denied employment since September 1978, when they began collecting their immigration papers.

The Rudins have been continually harassed and isolated from friends and neighbors by Soviet officials. Berta Rudin is seriously ill with heart disease as a result of the brutal and inhumane treatment from Soviet officials. She is in desperate need of medical care, which is being denied to her.

The Rudins were not allowed to apply for emigration in 1977, when their sons, Sergey and Leonid applied. Thus, in March 1978 their sons left the Soviet Union without their parents. Presently, Sergey is a Ph. D. student in physics at Brandeis University in Massachusetts and Leonid is a Ph. D. student in computer science at the California Institute of Technology.

In January 1979, the Rudins applied for emigration using an invitation, Visov, from their niece in Israel. In July, they were denied emigration on the basis of insufficient kinship. They were told to present an Israeli invitation from their sons, which is impossible as they are living in the United States.

In November 1979, their sons obtained an official U.S. Government invitation through the offices of then Secretary of State Cyrus Vance. On this invitation, Secretary of State Vance's signature was certified by Ambassador Dobrynin. But this official U.S. Government invitation was not recognized by Soviet officials in their Department of Immigration.

The Rudins latest refusal occurred December 8, 1981, after applying in May. This time, the official reason they were denied emigration was that Mrs. Rudin's sister, who lives in a different republic, has her own family, and does not communicate with the Rudins, had closer family ties than their sons.

So, despite five official invitations from the Israeli Government, four from the Rudin's niece and one from another of Mrs. Rudin's sisters, and one official invitation from the U.S. Government, the Rudins have deliberately and unequivocally been denied emigration from the Soviet Union.

Let the Soviet Government be warned that we will not continue to stand by and watch fellow humans being abused and stripped of their basic human rights. Remember the Rudins.●

## COMDR. ALAN W. SWINGER OF BERWYN, ILL., TAKES COMMAND OF THE U.S.S. "JOHN A. MOORE"

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. HYDE. Mr. Speaker, we all take special pride in the accomplishments of our constituents, and I am particularly pleased to announce that when the U.S.S. *John A. Moore* was commissioned in Long Beach last November, a former resident of Berwyn, Ill., was on hand to formally accept command of the new ship, Comdr. Alan W. Swinger. Commander Swinger is the son of Mr. and Mrs. Alexander Swinger of Berwyn, and they have been kind enough to send me the following newspaper articles on their son's achievements from the Life Newspapers in my district, and a Long Beach newspaper's report on the U.S.S. *Moore*'s commission.

I know my colleagues join me in wishing Commander Swinger and his crew great success and fulfillment in

their tours of duty with the U.S.S. *John A. Moore.*

[From Life newspapers]

SWINGER TAKES CHARGE OF SHIP

When the USS John A. Moore, the Navy's newest guided missile frigate, was commissioned in November, former Berwyn resident Alan W. Swinger was on hand to serve duty as the ship's commander.

He is the son of Mr. and Mrs. Alexander Swinger of 1329 Kenilworth Ave., and his wife, Sandra, is the daughter of Mr. and Mrs. Erwin Cihak of Oak Brook, formerly of Berwyn.

Swinger, born Dec. 10, 1943, attended the Illinois Institute of Technology for one year after graduating from St. Mel High School. While at IIT he joined the Naval Reserve. During his freshman year, he received presidential appointment to the U.S. Naval Academy in Annapolis, Md.

The former Berwynite received his bachelor of science degree from the Naval Academy and earned his master of science degree in operations research from the U.S. Naval Postgraduate School.

After receiving his commission in 1966, Swinger served on the USS Ozbourn as damage control assistant, combat information center officer, navigator and operations officer.

PUTS OUT SHIP FIRE

While serving as an ensign on the USS Ozbourn, Swinger was credited with putting out a fire started when the destroyer was hit by two enemy shells off South Vietnam.

After attending Naval Destroyer School in Newport, R.I., in 1968, Swinger served as operations officer on the USS Bronstein. In 1970 he was assigned as aide and flag lieutenant to the commander of the U.S. Naval Forces in Vietnam. He was commended for his meritorious service in this position.

In 1974, Swinger was assigned as executive officer of the USS Joseph Strauss.

The commander has not spent all of his time at sea. His shore assignments have included working with surface anti-submarine warfare in the systems division of the office of the Chief of Naval Operations and duty as the Navy's federal executive fellow at the Brookings Institute in Washington, D.C.

Prior to assuming command of the USS John A. Moore, Swinger was active in the Military Operations Research Society and was a member of the Naval Institute, Annapolis.

The serviceman has been awarded numerous times for his hard work. He has received the Bronze Star Navy Commendation Medal, the Navy Achievement Medal, a Gold Star in lieu of a second award and the Combat Action Ribbon.

Swinger's charge, the USS John A. Moore, was commissioned into active service with the U.S. 3rd Fleet in Long Beach, Calif.

The ship was named for John Anderson Moore, navy command officer of the fleet submarine USS Grayback during World War II.

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NAVY ADDS A SHIP TO GROWING LONG BEACH FLEET

(By Bob Andrew)

Not everyone was pleased when the guided missile frigate USS John A. Moore hoisted her largest flag to the peak, sounded her horn and sirens and took her place as the newest ship in the Long Beach fleet Saturday.

But those who didn't were too young to know what was going on. They were crying loudly in their mothers' arms and aware only of the noise, not the significance.

They were unaware that the glistening frigate became the 17th ship to join the expanding contingent at Long Beach, including the battleship New Jersey which is still being refitted at the Naval Shipyard.

By 1985, the Long Beach fleet will have about 35 ships homeported here, with another 15 being refitted in the shipyard at any given time. With more than 20,000 personnel assigned, the Navy's payroll here is expected to run more than $200 million annually by then.

USS Moore's commanding officer, Cmdr. Alan W. Swinger, formally accepted command from Rear Adm. Paul T. Gillcrist, commander of the San Diego Naval Base. Swinger read his orders, then commanded the ship's 180 officers and men to board the vessel.

Section by section, the crew jogged at double time up the gangways in response to squealing boatswain's pipes. In their best dress uniforms—complete with gold-hilted swords for the officers and a polished brass ceremonial telescope for Chief Bruce N. Miller—they "dressed ship," spacing themselves along the weather decks facing the audience at Pier 9.

When Swinger gave the orders to Executive Officer Gregory L. Hansen to "run up the battle flag and bring the ship to life," a barrage of gold and blue balloons floated from her upper decks. The band struck up the National Anthem as the huge flag blossomed at the yardarm.

On the foredeck, the missile launcher that is the ship's main armament popped from its housing, drew one of its 40 missiles and began swiveling alertly to port and starboard.

Even though the Moore is sparkling new, she has already begun to set records, completing her sea trials just two weeks after delivery Oct. 6 from Todd Shipyard in San Pedro. The Navy had allotted seven weeks for sea trials.

USS Moore had already met the Navy's minimum outfitting standards even before delivery, something that is usually accomplished during the post-delivery sea trials, and had her aft flight deck and two helicopters certified for air operations prior to commissioning.

The ship has strong ties to the family of her namesake, Cmdr. John A. Moore, who, as skipper of the World War II submarine Grayback, earned the Navy Cross three times while sinking nine enemy ships.

At the frigate's christening Oct. 20, 1979 Cmdr. Moore's widow, Virginia S. Moore, broke a champagne bottle across the ship's bow. Friday, Cmdr. Moore's brother, one of the naval architects who designed the refitting of the Grayback, spoke briefly of his brother's combination of strength and gentleness.

In rememberance of Moore's determination and fighting spirit, Swinger selected as the ship's motto, "Never Give In."

Rep. Dan Lungren, R-Long Beach, spoke at the commissioning, noting that the ship delivers "a message to the world that we will defend our freedom." As a Long Beach native, he also said the Moore "is as important to the community as it is, in the larger consideration of world peace, to the defense of the United States."

Cmdr. Swinger said his ship and crew are "ready to keep the peace if we can and to fight for the peace if we must."●

## NOBEL NOMINATION FOR BIAGGI

### HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Ms. FERRARO. Mr. Speaker, World Habeas corpus, the Commission for International Due Process of Law has nominated MARIO BIAGGI for the Nobel Peace Prize. Our distinguished colleague was nominated for his laudatory efforts to insure peace in the north of Ireland.

At this time, Mr. Speaker, I would like to insert in the RECORD an editorial which appeared in the February 13, 1982, Irish Echo.

NOBEL NOMINATION FOR BIAGGI

We were delighted to learn that Congressman Mario Biaggi has been nominated for the Nobel Peace Prize. He has been nominated by World Habeas Corpus, the Commission for International Due Process of Law.

The commission cited Rep. Biaggi's dedication to the cause of human rights and because of his longtime advocacy of peace and justice for the people of Northern Ireland.

No American political figure had been so consistent on the Irish question. We have said it before and we say it again. Mario Biaggi is the best friend Ireland has in America.●

## REAGANOMICS

### HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. FOGLIETTA. Mr. Speaker, President Reagan, in his fiscal 1983 budget message stated that when he assumed office "our ecomomy * * * was in the 'worst mess' in half a century." Well, if our economic condition at this time last year was the "worst mess" in the last 50 years, then this year it is in the worst shape it has been in for 51 years.

Reaganomics produced a December unemployment rate of 8.9 percent—the highest since the 1975 recession—and that only reflects the number of people looking for work. Estimates of the number of people actually unemployed range as high as 14 percent. The situation in Pennsylvania and Philadelphia is still worse. December figures for the Keystone State ranked it second only to Michigan in unemployment.

If this is not enough, Treasury Secretary Regan concedes that in the next few months unemployment may reach the highest level since the Great Depression. In short, the State slogan may soon read: "You have got a friend

in Pennsylvania, and he is unemployed."

Unemployment increases Government spending while decreasing revenue. The Congressional Budget Office estimates that every 1 percent of unemployment represents more than 1 million people out of work, and translates into an increased Federal deficit of $19 billion because of reduced tax income and increased unemployment-related program costs. White House fiscal year 1982 cost estimates were so low that the Congress has already been forced to approve $7.4 billion in supplementary outlays to cover the demands for unemployment compensation benefits and low income energy assistance.

Now the administration has submitted its fiscal 1983 budget to Congress. As proposed, it will inject huge amounts of money into sectors of the economy and regions of the country that already are prosperous and that will have a difficult time absorbing these increases, while it ignors the needs of States like Pennsylvania, Michigan, and Ohio, and cities like Philadelphia, Boston, and Chicago.

The overoptimism of last year's deficit estimates makes one very skeptical about the validity of this year's—projected at $91.5 billion. This was the administration that was going to balance the budget by 1984, and is now projecting a $71 billion deficit for fiscal 1985. The Carter budget deficit, which Reagan ran against, was projected at $7 billion for fiscal year 1983, and showed a $32 billion surplus for fiscal year 1984.

If the administration's budget plans are approved, defense spending will increase by $44 billion, with the Pentagon's total authority coming to $263 billion—up almost 45 percent in 2 years. Whether money alone can buy an adequate defense already is the subject of intense debate; but no amount of money can buy national security if we neglect the economic foundations of military production, or if defense spending itself further undermines the economic health of our older States and cities.

While unemployment rates in some parts of the Northeast and Midwest—States like Pennsylvania—are soaring to almost depression levels, defense subcontractors face a critical shortage of skilled workers such as precision machinists, mechanics, and tool and diemakers. This administration, however, proposes no national policy to train workers for the future needs of either a modern defense sector or a modern industrial base. While the lure of higher salaries in private industry is draining our schools and colleges of the teachers needed to educate the next generation of scientists and engineers, the administration proposes drastic cuts in State education block grants and guaranteed student loans.

While States and cities in the Northeast and Midwest are watching their factories close and workers stand idle, the Pentagon will spend more and more money in parts of the country that already have problems keeping up with growth. This year defense spending in the South and West will come to over $102 billion, while in the Northeast and Midwest it will be only $39 billion.

The same pattern is being followed in other key areas of the Federal budget.

While urban water systems in the Northeast and Midwest deteriorate and mass transit systems lose the funds they need to modernize or continue operations, the budget proposal increases funding for massive pork barrel projects of doubtful economic validity. The Army Corps of Engineers and Bureau of Reclamation together are slated to receive $3 billion in fiscal 1983—only $600 million of which will be spent in our region.

While residents of the South and West pay energy bills in some cases less than half those of households in the Northeast and Midwest, the administration proposes to slash programs to encourage conservation and develop alternative sources of energy. Federal conservation efforts would be reduced by 95 percent from their 1981 levels, solar and renewable energy programs would be cut by 75 percent, and assistance for State and local conservation programs would be eliminated.

At the same time, low income energy assistance—a lifeline for many of the poor and elderly in the North—would be reduced by 25 percent, and new rules would make it virtually unavailable to those dependent on welfare. As a result, States and cities that already are financially strained would be faced with new demands to step in and relieve their poorest citizens of the need to choose between heating and eating.

If our economic health is to be restored, we must develop a budget alternative that will not heat up the economy in prosperous States while further depressing it in States like ours. Simply stated, we must develop a budget that is fair to all regions of the country and restores Americans' faith in their economy and their Government. The President's budget does not do this; it is now up to the Congress to try.●

## LITHUANIAN AND ESTONIAN INDEPENDENCE DAYS

### HON. JAMES A. COURTER

OF NEW JERSERY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. COURTER. Mr. Speaker, I would like to associate myself with the remarks and actions of the House Ad Hoc Committee on the Baltic States and the Ukraine, and particularly commend the actions of Representatives DOUGHERTY, DONNELLY, and ANNUNZIO for their courageous action on behalf of the Baltic and Ukrainian peoples.

The people who inhabit the occupied nations of Lithuania, Latvia, Estonia, and the Ukraine have suffered decades of Soviet oppression. This oppression has included beatings, killings, jailings without trials, internal exiles, cultural genocide, and total noncompliance of the Helsinki accords on human rights. The Soviets have extended their empire of tyranny to Afghanistan and Cuba, and now menace Poland and Central America. It must be remembered that it was the Baltic States that were among the first to be victimized by Soviet imperialism and occupation. Oddly enough, Lithuania and Estonia have since 1940 been unable to celebrate their respective independence days, which just passed, because of their captive status. Latvia suffers the same fate. Along with my colleagues in the Congress, I want the Baltic and Ukrainian people to know that their cause for freedom and democracy is alive and well in the United States, and that we will continue to speak out on their behalf, until their goals are realized. We must continue to tell the Soviets that we will "hold their feet to fire" with regard to human rights violations and the Helsinki accords. We will not rest until they are free. Thank you, Mr. Speaker.●

## PEACE, WAR, AND THE INSTITUTE FOR POLICY STUDIES

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. McDONALD. Mr. Speaker, on several previous occasions I have drawn the attention of my colleagues to the Institute for Policy Studies (IPS), which has been defined as a Washington-based revolutionary think tank. IPS consistently advocates projects that seek to influence U.S. policies in accordance with the Soviet line. As one observer stated, IPS is the "perfect intellectual front for Soviet activities which would be resisted if they were to originate openly from the K.G.B."

In January of this year, IPS sponsored a weekend colloquium under the title "Prospects for Peace and War." Mr. John Boland, a senior editor of Barron's, gave an overview of IPS' latest endeavor in the Wall Street Journal, February 5, 1982. Since IPS will play a major role in the building of a U.S. disarmament movement, with the ultimate aim of crippling our de-

fensive capabilities, I highly recommend Mr. Boland's observations to my colleagues:

[From the Wall Street Journal, Feb. 5, 1982]

PEACE, WAR, AND THE INSTITUTE FOR POLICY STUDIES

(By John Boland)

WASHINGTON.—Among Washington think tanks, the Institute for Policy Studies sets a mean pace. It criticizes the United States as engaging in militarism, imperialism and domestic repression, assails multinational corporate power, and provides a forum and political lobbying arm for Third World liberation movements. A recent colloquium at the Institute's headquarters here brought together about a hundred persons, including fellows from IPS and its Transnational Institute affiliate, at least three congressional staff members, a U.S. coordinator for Palestinian organizations and a number of university students. The theme was "Prospects for Peace and War," and the purpose was to try out ideas for building a major U.S. disarmament movement. That cause already has enlisted dozens of other groups, from pacifist Catholic bishops to the Soviet-influenced World Peace Council.

While the campaign resembles the Vietnam-era resistance movement, its ambitions are far grander: nothing less than the Atlantic Alliance's demise, a neutral Europe and U.S. disarmament.

Soviet militarism aroused little alarm. Amid chatter about the "reaction" and "viciousness" of the Reagan administration, about capitalism's "hegemonic presumptions," Fred Halliday, a Transnational fellow, tried to explain Soviet missile deployment against Western Europe. "All the Russians have done with the SS-20 is try to catch up," said Mr. Halliday. Agitation in Europe by an "unflinching neutralist and pacifist movement," opposing the basing of NATO nuclear weapons, Mr. Halliday observed, could mark a breakthrough against East-West "bloc logic," and hasten the alliance's dissolution, "which in my view is what should happen."

"The idea that we're going to win the arms race is absurd," declared Richard Barnet, a former official in the Kennedy administration, and a founder of IPS in 1963. "The hopeful element in all that is that by turning on the rhetoric, Reagan has scared the American people and the allies more than the Russians. That's done more for the European peace movement than anything else." Citing a poll finding that 47 percent of the American people expect a nuclear war within five years, Mr. Barnet added: "That the security policy developed by the administration is disbelieved by so much of the population suggests great possibilities for an American peace movement. The possibilities will increase as we see the economic damage of the arms race."

Marcus Raskin, co-founder of the Institute, urged a moral campaign to put nuclear weapons "outside the frame of reference of any strategic defense of the United States." Building them and aiming them at cities, he insisted, could be treated as a "war crime." American scientists could be pressed to take a "Hippocratic oath" refusing to build nuclear weapons.

One early test for that kind of thinking is the United Nations Second Special Session on Disarmament, scheduled for June 9 to July 7 in New York. A favorable public and media response to demonstrations and pulpit-pounding surrounding that session will encourage IPS and other groups that the U.S. may be receptive to a peace mobilization. In coming months, the Institute plans to train speakers for campus road shows in hopes of having a disarmament bandwagon rolling by fall.

Is all this wishful thinking? Especially given Afghanistan, Poland and the public's seeming rightward drift? Skeptics within the IPS orbit argue that two major elements needed for a neutralist movement are lacking in the United States: exploitable fear of a limited nuclear conflict in one's backyard, a theme the left has been drumming home in Europe; and the nationalistic exhilaration of kicking Americans and their weapons out.

With the audience generally sympathetic, some speakers felt free to let their hair down more than they do when writing for the Nation and the New York Times op-ed page. There was general agreement, for example, that the disarmament message couldn't be sold on its merits all the time, but such issues as economic burdens and unemployment would help recruit support. Chester Hartman, a visiting fellow at IPS, referred to "savage" domestic budget cuts in food stamps, Medicaid, public housing and other welfare programs. By identifying the cost of C-5 transport planes and other military hardware in terms of numbers of people cut from social benefits, he suggested, the left could excite resistance. "Don't forget that this becomes a two-way argument," he counseled. "The more money we succeed in pulling to domestic uses, the less will available for getting those C-5s built and our rapid deployment force around the world."

Issues of Soviet expansion and repression were deflected with denunciations of U.S. support of the "murderous oligarchs of El Salvador" and of plots for intervention against the struggling democrats in Nicaragua. Declared Fred Halliday: "The hypocrisy of the Reagan government on Poland is just beyond belief," because while assailing repression there the U.S. has been aiding El Salvador, Pakistan, the Sudan and other repressive right-wing regimes. "The actual level of repression is less" in Poland, according to Mr. Halliday, than in "20 or 30" of the U.S. and Britain's allies. A bit later, IPS fellow Michael Moffitt referred in passing to Third World countries that are "more democratic in the bourgeois sense"—as opposed to those that have been liberated.

One schism disrupted things. Fred Halliday announced that if Western Europe had rejected U.S. Pershing II missiles in return for the Polish government's granting Solidarity a role, Poland wouldn't be under martial law. The suggestion of NATO complicity in Poland evoked an outburst from one of left journalism's elders, I. F. Stone. Condemning the Soviet Union's sentencing of members of the Helsinki watchdog committee. Stone cried: "Why did they have to send these few brave people to Siberia? What were they so afraid of? . . . The rigidity of this regime is a disgrace. They've destroyed socialism morally." On Poland, he snapped: "You can't blame it on Reagan. It's a big event. . . . These cliches are not good enough for reaching our fellow citizens and urging caution."

Fred Halliday was wounded. "It's not a cliche," he said. "It's a central theme of the European peace movement—shared responsibility."

Mr. Stone wasn't present for later sessions, so he missed a ringing apology for Soviet expansion by Saul Landau, a TNI fellow recently returned from conferring with Sandinista officials in Nicaragua. Said Mr. Landau: "Anti-Sovietism is the key to the [Cold War] ideology. It's one of the great divisors within the progressive movement, and we have to deal with it. . . . The Soviet Union has been the one insurance policy of successful [Third World] revolutions."

Mr. Landau, who a few years ago told a Cuban friend that he planned to dedicate himself to "making propaganda for American socialism," saw hope for advance of the liberation cause. The language of Catholic priests in denouncing economic injustice and the language of Marxist-Leninist guerrillas are identical, Mr. Landau observed.●

## DISABLED VETERANS OUTREACH PROGRAM LEGISLATION

### HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. EMERY. Mr. Speaker, I am today introducing legislation which should enjoy bipartisan support, during this era of high unemployment and private sector initiatives. My bill concerns the disabled veterans outreach program (DVOP), which is funded under the Department of Labor.

In 1977, the Congress directed the Department of Labor to implement a disabled veterans employment program, to be administered through the Job Service offices of the 50 States. All the States except one agreed to this arrangement. The State of Maine elected to fund and administer its DVOP program through a contract with the American Legion, and it has been a very effective and worthwhile program, indeed. As of November 1981, Maine DVOP had placed 3,220 veterans in jobs, at about $200 per placement. This figure represents a 61-percent success rate, which is very commendable, by any standard.

The bill I have introduced would permit the Secretary of Labor to fund the State DVOP programs through the transfer of funds to organizations such as the American Legion, which have had a better success rate than many of the State job service programs. In the case of the Maine American Legion Department, many of the job counselors are Vietnam veterans with prior experience in the State job service or other related areas. Since these counselors are viewed as friends with shared experiences, and not just bureaucrats, Maine veterans are more willing to approach them for assistance in finding employment. Almost 9,000 veterans have been counseled to date, and 81.6 percent of the veterans placed in jobs by Maine DVOP have been Vietnam veterans or disabled veterans from another conflict; 31.4 per-

cent of these jobholders are disabled veterans from the Vietnam era.

The Maine DVOP program operates out of five counseling centers in Portland, Lewiston, Augusta, Bangor, and Presque Isle. The total yearly budget for the Maine DVOP program is approximately $260,000, and that includes all expenses, even utility charges at the centers. I do not see how anyone could argue with the cost-effectiveness of this private/public sector partnership, and, in fact, the Maine DVOP program has already received a commendation from the Secretary of Labor.

I have very good reason to believe that the administration will support my legislation, and I would hope that other States will look into the desirability of this type of approach for the management of their own DVOP programs.●

## HANDICAPPED PEOPLE ARE MAKING THEMSELVES PRODUCTIVE

### HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. GINGRICH. Mr. Speaker, bright people with physical handicaps are no longer condemned to living an unproductive life in a wheelchair or hospital bed. They are working to make themselves productive.

A story in the Denver Post tells of a class full of handicapped people who are learning to use what they have to become useful citizens. Since computers can be adapted to get around almost any physical handicap, these people are using them to earn their own way.

With the proper attachments, a computer cannot tell if a person is blind, quadriplegic, or suffers from multiple sclerosis. So people in Denver with these conditions are glad to learn computer programing. It means they will have a promising future in an increasingly competitive world.

This positive article from the Denver Post follows:

HANDICAPPED LEARNING COMPUTER-PROGRAMMING SKILLS

(By Art Branscombe)

In a rather small room on the Auraria campus of the Community College of Denver, a blind instructor is leading 13 severely handicapped persons into the brave new world of computer programing.

The students in this unique course have every conceivable disability except one. One is blind, another a quadriplegic; others have cerebral palsy, multiple sclerosis, muscular dystrophy, severe arthritis and severe lower back problems, among other ailments.

The one personal asset they have in common, says Dr. Tony Manuele, project coordinator, is above-average intelligence. "Not everyone can do computer programing. It's more a mental than a physical process," he noted, so student IQs range from 110 on up.

Their other assets include $80,000, which pays for the mostly federally funded program, and a business advisory council which oversees it and virtually guarantees jobs to those who complete it satisfactorily.

"There is a tremendous demand for programers in Denver," Manuele noted.

Hanging in there, though, requires from the students real physical and intellectual stamina and tenacity, Manuele pointed out. The course, first of its kind in the region, began in November and will run into late August, he said.

These individuals will be in class six to eight hours a day, five days a week, for nine or 10 months," he added. "It's quite intensive training"—more so than the standard community college course.

"Physically, you need hands and eyes and thought to program computers—with an emphasis on thought," said Mark Oklak, main instructor for the course. He is legally blind, although he can read the computer screens from close range.

"We've got a qualified instructor who is not only highly competent, but serves as an excellent model for the others," Manuele noted, nodding at Oklak. Oklak said he has been working with computers since 1973, most of the time with the regional office of the Department of Housing and Urban Development.

Teaching the course is only slightly complicated by the students's handicaps, he declared, despite the fact that some of them have impaired use of their hands.

"For some of the students who don't have complete control of their hands, you may have to repeat something so they can take notes," he said.

Similarly, a blind student, such as Vicki McKinney, may "read" books and computer screens somewhat more slowly than her classmates, Oklak said, but she still gets the job done. She does it by sticking her left hand into an "Optacon," a small box with prongs which press against her fingers and reproduce the shape of letters and numbers relayed from a scanner she holds in her right hand.

After reading a complex pattern of words and numbers on the computer screen with ease and aplomb, McKinney, whose guide dog lays at her feet, said, "This is one of the things that's been invented that I've found extremely helpful." She has used it in the past, she added, to do clerical work.

A visitor also couldn't help but be impressed by the smooth way Bill Parks, 19, a quadriplegic, tapped the computer keys delicately with the knuckles—not the tips—of his fingers.

"I really do like it (computer programming)," Parks said. "I'm amazed that I do, but I do."

Equally deft and precise in running his computer was Randy Hess, 26, a sufferer from cerebral palsy. He agreed, with a small smile, that he now can run the machine almost as well as anybody could. Does he enjoy it?

"Yeah," he replied.

Ken Sommerville, 25, partially disabled by multiple sclerosis, said he hasn't done enough programming yet to know whether he really likes the work. "So far, I like it," he said, then added, "The potential (high) pay is a prime motivator, at least for me."

Manuele, Oklak and some of the advisers will evaluate the students three times, seeing to it that the students are acquiring the breadth and depth of knowledge required.

The great value of this system, Manuele concluded, is that, "If the business community selects and follows through with these students, then the final outcome of the course—job placement—should be relatively easy."●

## "DESPERATE LIVES": THE NATIONAL PROBLEM OF HIGH SCHOOL DRUG USE AND ABUSE IS OF EPIDEMIC PROPORTIONS

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DORNAN of California. Mr. Speaker, I wish to bring to the attention of my colleagues "Desperate Lives," a 2-hour television movie for CBS, produced and written by Emmy award winner Lew Hunter. The film, a Lorimar production in association with the Fellows-Keegan Co., for CBS, will air Wednesday, March 3, 1982.

This is not "just another movie," but the most powerful film ever created on the usage and abuse of drugs by teenagers. The story did not have to be researched, for both executive producer Terry Keegan and producer/writer Lew Hunter lived the story through their own children.

Our Health and Human Services Department states that 80—yes, 80—percent of today's youth use drugs on a regular basis. Let me repeat that figure once again: 80 percent of our children use drugs on a regular basis. Health and Human Services defines "regular" as at least once a month. The teenagers state that the average usage is at least once a week, with many, several times a day.

How many of us say, "not my son, or not my daughter," but find out otherwise. It took Mr. Hunter over a year and a half to learn that his son was "involved." How many of us throughout the Nation still do not know, and may never know, until it is too late.

Drug abuse is not a local or regional crisis, but a national problem of epidemic proportions. It is a problem, not for one school, but for all schools. It affects, not one ethnic group, but all groups alike. And it is a problem that shows no respect for economic status, rich or poor. In short, it is a modern plague that is preying upon our most precious asset in all the world, our children.

"Desperate Lives" sensitively portrays actions and reactions to typical tragedies involving marihuana, cocaine, angel dust, and the myriad of other drugs of abuse.

I urge all of you, your children, friends, relatives, and all throughout our Nation to view "Desperate Lives"

on March 3. Without hesitation, I am certain that you will be shocked to the point of tears and conclude with the same feeling that I had upon watching the movie, "Something must be done!" And it must be done with courage as shown by director Robert Lewis, executive producer Terry Keegan, producer/writer Lew Hunter, and the outstanding cast and crew.

A special expression of gratitude should also be extended to the Columbia Broadcasting System and Lorimar Productions for a presentation that can only be termed a "public service."●

## PROBLEMS WITH THE REAGAN DEFENSE BUDGET

### HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. GREEN. Mr. Speaker, in today's Wall Street Journal Walter S. Mossberg, a defense reporter for the Journal, writes that:

The details of the Pentagon's huge spending proposal reveal so little creativity, so little selectivity, that the budget may undermine the President's case for the big military buildup he has proposed.

Secretary of Defense Weinberger has outlined several small, administrative means of savings, but has yet to identify a major procurement project for cancellation. Thus, the Pentagon's wasteful and unwise policy of strategic overlap and duplication continues. The Pentagon's plans for the air-based leg of our strategic "triad" are a case in point: We are buying the B-1 bomber, researching so-called Stealth planes, and upgrading our B-52 bomber fleet. We do not need, nor can we afford, all three. Without making hard choices about our weaponry we waste money, buy outmoded hardware that cannot contribute to our ability to fight a war, and cause the public to lose faith in our ability to build our defenses without squandering large amounts of limited fiscal resources.

I think my colleagues will find Mr. Mossberg's comments to be of great interest, and ask that they be inserted in the RECORD at this point.

[From the Wall Street Journal, Mar. 2, 1982]

PROBLEMS WITH THE REAGAN DEFENSE BUDGET

(By Walter S. Mossberg)

WASHINGTON.—President Reagan has demonstrated a notable consistency and tenacity by asking Congress to raise defense spending almost one-fifth next fiscal year, despite surging budget deficits that have caused widespread concern.

The President is decisively carrying out his campaign promise to allot an increasing share of federal outlays to the military, at the expense of nondefense programs. The first budget wholly drawn up by his administration devotes nearly 29 percent of total federal outlays, about $216 billion, to the Pentagon, up from about 25 percent, or $183 billion, currently.

However, the details of the Pentagon's huge spending proposal reveal so little creativity, so little selectivity, that the budget may undermine the President's case for the big military buildup he has proposed.

Like last year's hasty, patchwork Reaganite revision of President Carter's final defense budget, the first formal budget of the Reagan Pentagon is little more than a catalog of the same old weapons being bought before, but now with higher quantities and price totals.

Partly for this reason, the President's defense budget is failing to win hoped-for support in Congress. When it was presented to the generally friendly Senate Armed Services Committee several conservative Senators demanded that Deputy Defense Secretary Frank Carlucci offer suggestions of weapons that could be cut from the budget. "I'll be brutally frank with you," warned Indiana Republican Dan Quayle. "Outside the Armed Services Committee, there's just not much support for it."

WE WANT IT ALL

And the independent newspaper Army Times, hardly an enemy of the Pentagon, attacked the new budget in an editorial this week as "indiscriminate." Though it has steadily advocated higher defense spending, the newspaper complained "the Pentagon seems to be saying 'We want it all.' By submitting such a budget request, the administration risks destroying the delicate consensus on national defense."

The record this far shows that Defense Secretary Caspar Weinberger has failed to make effective use of his political freedom to reshape weapons choices—a freedom available to an administration that can hardly be attacked as soft on defense.

After a year in office, Mr. Weinberger has overhauled the process by which armaments are chosen and built; his weapons-buying "reforms" including multi-year contracts are said to allow purchase of the 1983 weapons catalog for $2.4 billion less than under the old practices.

But the Secretary has yet to identify a single big-ticket weapon in production, or even on nearing production, which he deems worthy of cancellation. Even where his budget embraces a new weapons approach, it offers no corresponding reductions in older weapons that might be replaced.

Mr. Weinberger argues that he's a prisoner of past decisions. "The cancellation of a system into which a very large amount has been put is a very difficult fiscal and military decision," he says. "You've got two problems with it, at least. You've got the problem of wasting (the development) money, and the problem of perception—are they serious about rearming?"

Whether for these or other reasons, the new budget avoids making choices. In effect, Mr. Weinberger is asking for the moon, but promising that through savings in weapons-purchasing he can get it for us wholesale. However he pays for it, though, it's still the moon.

A few examples:

The budget provides $1 billion to buy 48 of the Army's new AH-64 attack helicopters, even though the Army is so concerned about the ballooning cost that it is refusing to sign a production contract.

Production of the Navy's P3 patrol plane is funded at $363 million even though the Pentagon decided at one point to drop the program since the Navy wouldn't need any new P3s for five years. (Lockheed Corp. lobbied hard to restore the funds, saying it might lose foreign sales otherwise.)

Though the budget provides $4.8 billion for the B1 bomber, and unknown billions more for the secret Stealth bomber, it also pours money into duplicative weapons. About $500 million would be spent to upgrade the B52 bombers being replaced by the B1, and another $864 million would buy the cruise missiles designed to help supplant the B1. Millions more would go to develop two other new bombers based on the F15 and F16 fighters.

Some $230 million would be spent to buy new light tanks that can be rushed into battle with the Rapid Deployment Force. But no offsetting cutback is proposed in the planned purchase of 7,000 M1 battle tanks, which are so ponderous they can't be rushed anywhere in numbers. Indeed, the budget provides $2 billion to buy 776 of the M1s.

Items like these can't easily be obscured by the $7.4 billion Mr. Weinberger boasts won't have to be spent in fiscal 1983 because of management "reforms" he instituted. About $4 billion of these savings actually stem from pay and pension limits that apply to all federal employes. Only $1 billion comes from cost-cutting on items like travel and consulting fees, and less than $2 billion from cutting or killing dozens of minor hardware programs.

The Pentagon has a particular responsibility to handle its funds carefully. It is seeking budgets so big they are almost impossible for laymen to grasp, and it is benefiting at the expense of long-established social programs whose decline will pinch the poor and the aged.

Consider these comparisons, drawn from administration budget documents: The proposed $216 billion in fiscal 1983 defense outlays exceeds total corporate profits, after taxes, for any year on record. It is roughly 50 percent larger than the combined federal outlays for health, education, job training, agriculture, energy, environment, transportation, natural resources and law enforcement. The budget proposes spending more next year on a single Trident submarine than combined outlays for cancer research and aid to refugees.

The sheer size of the figures, of course, isn't an argument against the arms buildup. As a share of national wealth or of the federal budget, defense spending is still far from its historic highs. What's more, years of relatively low military spending in the face of a Soviet buildup demand costly measures today.

But the administration's refusal to challenge the military's hardware appetite may prove detrimental to its defense program, in at least two ways.

First, the budget saddles the ambitious Reagan defense strategy with an unsuitable mix of weapons. Under President Reagan, the Pentagon is asked to carry out a military strategy that is more oriented toward rapid intervention world-wide and less centered on Europe than in the past. But it is choosing to do so with an armory of heavy, high-cost, limited-quantity weapons designed much more for static European defense.

Second, by granting every important hardware request of the top brass, the budget demonstrates a surprising political obtuseness. At a time when even conservative Republicans are talking about cutting military spending, no amount of escalation in price

or shortcomings in performance seemed enough to disqualify a weapon for production.

AN EMASCULATING BACKLASH

It's possible that, using a longtime Pentagon tactic, Mr. Weinberger deliberately left in the budget some overpriced or redundant weapons, in order to give Congress something to cut. But the congressional ax is likely to fall most heavily on readiness-related items like training, fuel, spare parts and maintenance, which have an immediate impact on the deficits. The perception of the Reagan rearmament program would be weak indeed if, by overreaching, the administration sparks a congressional backlash that leads to its emasculation.

The Defense Secretary points out that he prefers to kill or revamp unwise weapons when it is most cost-effective to do so, in the early research stage. He recalls that he overruled the military by dropping the $40 billion multiple-shelter plan for the MX missile and killing the costly proposed CX cargo plane.

But both proposals were in trouble in Congress anyway, and neither step is sure to save money. The administration hasn't devised a new basing system for the MX, so it isn't known how much this missile program will cost. And Mr. Weinberger doubled the Air Force's seven-year cargo plane budget to $11 billion at the same time he killed the CX.

An effective national defense, able to deter war, is surely worth $216 billion or even more to a country as wealthy as the United States. That is a central Reagan theme. But indiscriminate purchasing of big-ticket weapons isn't necessarily an effective defense program, nor is it a politically attractive one at a time of economic troubles.

[Mr. Mossberg, a member of the Journal's Washington bureau, covers national defense.]●

## SOCIAL SECURITY STUDENT BENEFITS

### HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. O'BRIEN. Mr. Speaker, under the Budget Reconciliation Act (97-35), the social security student benefit program was eliminated. Unfortunately, eligibility for these phaseout benefits requires enrollment and attendance full time in a college by May 1982. Obviously those who graduate from high school in May or June will not be able to get a benefit.

Nonetheless, there are some students who have been able to obtain early enrollment in their nearby colleges, which would qualify them for the social security student benefit. Unfortunately this option is not available for all senior high school social security dependents who plan to attend college in the fall of 1982.

Today I am introducing a bill which would help to correct this unfortunate situation. My bill changes the enrollment date from May 1 to October 1. This will allow this year's high school seniors to carry through with any postsecondary education plans they may have made.

I believe this is a fair and equitable solution, particularly in light of the fact that the Social Security Administration had been remiss in not notifying these students, high school and college counselors, of the change in the law.●

## BILL MEYER: A DOCTOR'S DOCTOR

### HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. WALGREN. Mr. Speaker, I want to call attention to this moving remembrance of Dr. Eugene Meyer III, a psychiatrist at Johns Hopkins University School of Medicine.

Although I never had the opportunity to meet Dr. Meyer, I cannot help but think that the standards he set in his life are worthy goals for those who choose medicine as their profession. As a member of the Health Subcommittee, I know that skilled training alone does not a good doctor make. Compassion and caring, qualities often thought divorced from the scientific skills of the medical world, can make the difference in the success or failure of a medical procedure. Dr. Meyer, a superb psychiatrist, knew that well.

I commend to my colleagues the following eulogy written by Dr. Leon Eisenberg of the Harvard Medical School, because Dr. Meyer was a good person he was an even better doctor.

BILL MEYER: A DOCTOR'S DOCTOR

Eugene Meyer III, who died Wednesday, was a psychiatrist at The Johns Hopkins University School of Medicine and a member of the board of directors of The Washington Post Company. The writer of this appreciation is a professor of psychiatry and of social medicine at Harvard Medical School.

Bill Meyer was a doctor's doctor, the kind I would have wanted for myself when ill: highly skilled, compassionate and caring. Despite what people say, it isn't true that they don't make them that way anymore. There are others like Bill, though not many, and none better. There never were many; it's only nostalgia that makes us think there were. Medical training, when it is good, provides the skill and the knowhow, but it is the inner qualities of the man or woman that transmute life experience into compassion and care.

Bill, for that's how his friends knew him, was a psychiatrist, but a psychiatrist of a very special kind. He was a competent internist as well, and managed to do what few can: as a doctor, he embodied an integrated approach to mind and body that neglected neither and remained alert to their subtle interaction. From my years at Hopkins, I still remember patients whom others referred to him as psychiatric problems but in whom he unmasked an underlying and neglected medical problem. I remember as well medical patients whose disorders he was the first to identify as psychiatric. The difference for the patient was literally a matter of life and death. Diagnostic triumphs like that make an academic reputation, but there was more, far more, to his physicianship. He was superb at managing psychological concomitants that are part of all serious medical disease. He knew how to do it, and he knew how to teach it. As chief of the psychiatric consultation service at the Johns Hopkins Hospital, he helped make a generation of medical and psychiatric residents better doctors.

This is not the place or the theme to review his many contributions to research. Perhaps the quality of the man can be conveyed by referring to just one of his interests: the psychological effects of plastic surgery. Before he undertook his research and collaboratively with Milton Edgerton, the professor of surgery, conventional wisdom held that repair of cosmetic flaws would only result in a shift of symptoms to some other focus of concern, with no benefit to the patient. But the conventional opinion was just that: opinion without facts to back it up. Bill, against advice that it would all be a waste of time, undertook a careful investigation that provided a forceful demonstration of quite the opposite. Most patients obtained substantial psychological gains from cosmetic surgery, provided that they had been properly prepared and provided that individuals with severe psychopathology were excluded. It was typical of Bill not to take anything for granted.

The last 20 years of his life were encumbered by a series of illnesses and multiple complications from unsuccessful attempts at treatment. Yet he continued to bring solace to others in the face of pain that afflicted his days and nights. When he died, he was laden with cancer cells. He knew it, and he didn't flinch. It was as if the gods of disease had exacted a ghoulish revenge for his fight in behalf of their victims. Life Prometheus, for inspiriting ordinary men and women, he was condemned to a painful death.

Let me confess: Bill would not have tolerated my metaphor for a moment. He was too modest and too shy to allow himself to be portrayed as a hero. His ambitions were more modest. He wanted to be thought of as a good doctor. That he was, and a good father, a good friend and a good man.●

## GARRISON FOREST SCHOOL STUDENTS TOUR THE NATION'S CAPITAL

### HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LONG of Maryland. Mr. Speaker, on Wednesday, March 3, 1982, 26 young women from the Garrison Forest School, Garrison, Md., will journey to Washington for a firsthand look at their Nation's Capital.

These students, led by Mr. Bayly Buck, will tour the Capitol, observe the House and Senate in session, and time permitting, will visit the Supreme Court and the White House.

I am delighted these students are taking this opportunity to visit with us, and I hope their interest in our Nation's political process will continue.

Students who will visit us Wednesday are: Nancy Hutchins, Kate Hathaway, Jenny Banker, Dana Glenn, Landon Stonesifer, Shannon Cameron, Laura Poole, Mary Howard, Anne Harrison, Deede St. John, and Weezie Pons. Lisa Whitridge, Marnie Cullen, Tiffany Burke, Mary Guest, Muffin Graham, Carol Afrookteh, Kate Beckwith, Susannah Brown, Betsy deRoeth, Kim George, Jackie Myers, Joanne Polin, Penny Puchner, Pintet Halasan, Shawn Edelen.●

## U.S. POLICY ON NAMIBIA NEEDS TO BE CHANGED

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. McDONALD. Mr. Speaker, U.S. policy on Namibia appears to be suffering from confusion and benign neglect. The result appears to be a drift toward U.N. and Marxian solution to the problem. This should not be allowed to happen. Namibia, its people, and its minerals should stay in the camp of the free world. Therefore, a number of us have addressed a letter to President Reagan on this subject today asking that he halt this drift and confusion and turn away from the SWAPO terrorists and their Communist backers. At this point I wish to insert the complete text of the letter in the RECORD for the considered thoughts of my colleagues.

HOUSE OF REPRESENTATIVES,
*Washington, D.C., March 2, 1982.*

Hon. RONALD REAGAN,
*The White House*
*Washington, D.C.*

DEAR MR. PRESIDENT: As Members of Congress concerned about the national security of our nation and her role in preserving truly representative governments in regions allied with us, we are deeply concerned over this country's apparently drifting policies towards Namibia and the question of Namibian independence.

The problem appears to lie in the top levels of State Department Africa policy development. This nation's Namibia policy seems based on a desire to avoid at all cost any principled disagreement over Namibian independence with Third World countries—even those in fact aligned with the Soviet Union and acting as Soviet surrogates.

The Soviet Union, its satellites and surrogates are totalitarian "command" regimes which do not wish to see a freely-elected representative government come to power in Namibia. The Soviet Union and its allies instead support the South West Africa People's Organization (SWAPO), which is based in Angola and carries out terrorism against the Namibian civilian population. SWAPO's terrorist cadre is indoctrinated and taught its terrorist techniques by Soviet, Cuban and other Communist-bloc instructors. SWAPO leaders have repeatedly expressed contempt for the concept of protecting minority rights and for multi-party government. No reasonable person can conclude rule of Namibia by SWAPO would be less than a one-party Marxist dictatorship.

Despite these facts, America's policy, as expressed through the State Department, has been one of courtship of revolutionary, pro-Soviets SWAPO and its most radical Third World United Nations supporters, such as Angola.

At the same time, the State Department has expressed open hostility to leaders of the coalition of political parties opposed to the SWAPO terrorists, the Democratic Turnhalle Alliance, (DTA), although they hold their positions through popular elections.

Where there is no State Department interference with the activities of SWAPO leader Sam Nujoma in visiting this country to meet with his activist supporters and with academic, media, and political figures in order to organize a support lobby for SWAPO, the State Department imposes strict, demeaning restrictions on the activities of leaders of the Western-oriented Democratic Turnhalle Alliance, (DTA), Namibia's elected and governing majority political organization.

We urge you to direct a reconsideration of America's policy regarding the question of Namibian independence and towards the Democratic Turnhalle Alliance Coalition.

While justly and rightly standing against Soviet expansion through its surrogates in the Caribbean basin, America cannot afford to ignore similar encroachment in southern Africa against Namibia.

Sincerely,

Daniel B. Crane, George Hansen, Sonny Montgomery, Richard Shelby, John Ashbrook, Bob Badham, Bob Walker, Floyd Spence, William Carney, Gerald Solomon, Larry P. McDonald, Dan Daniel, Bob Stump, Jim Jeffries, Bud Hillis, David Dreier, John L. Napier, Bill Dannemeyer, Robin Beard, Phil Crane.●

## IN HONOR OF RICHARD D. CROWE

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. THOMAS. Mr. Speaker, I would like to commend the achievement of a constituent and friend, Mr. Richard D. "Dick" Crowe, who is retiring after a long career of service to industry and community.

Mr. Crowe has been a respected, contributing professional in the telephone industry, in his home State of California and throughout the West and the Nation. In addition, he has been a leader in every community in which he has lived.

Professionally, Mr. Crowe has served nearly 45 years in the telephone industry, more than 40 of those in management, ownership, and leadership roles.

He is recognized as the leader in improving rural telephone service throughout the West as one of the founders of the Western Rural Telephone Association. He banded together many family-owned telephone companies, introduced them to new financing possibilities for upgrading their systems through use of the Rural Electrification Administration (REA), and encouraged State utility commissions to recognize the value of REA funding in improving telephone service.

Mr. Crowe further served as president of the Western Rural Telephone Association as well as the California Independent Telephone Association. On the national level, he served capably on the REA administrator's telephone advisory committee.

As a civic leader, Mr. Crowe served as mayor of the city of Dos Palos, Calif., was president of the Dos Palos Chamber of Commerce and the Merced County Chamber of Commerce. He also served on the Merced County Board of Education and was vice chairman of that county's committee on school district reorganization.

For 14 years he has served actively with the Death Valley 49ers and currently is president of that organization. The group works with our National Park Service for the preservation of the beauty, ecology, environmental, and historical aspects of Death Valley National Monument.

For years, Dick Crowe has been recognized as a community leader and by his peers as an excellent spokesman for the telephone industry. Although he is entering a well-deserved retirement, I know Dick Crowe will continue to serve his commuity as always, because service is an ingrained habit to a man of his caliber. I wish him the very best.●

## UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

### HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. DAVIS. Mr. Speaker, during the debate on the urgent supplemental appropriations bill for unemployment insurance and employment services, which took place in the House on February 9, I received permission to submit an Extension of Remarks for the RECORD but inadvertently did not do so. I would like to take this opportunity to belatedly express my support for a measure which restored $210 million to employment services, the original version of which I was a cosponsor. In this time of tremendous economic difficulty and high unemployment, it is unreasonable to expect that all of the unemployed will be able to find jobs without assistance. Employment

services provides an important avenue of hope and assistance to the jobless, important quantities in a discouraging time for these individuals.

I strongly supported this supplemental appropriation and was pleased that the measure received such prompt attention from the Congress.●

## MICHIGAN'S WILDERNESS HERITAGE

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. KILDEE. Mr. Speaker, today I am introducing legislation to designate certain public lands of outstanding natural and scenic value in Michigan as part of the national wilderness preservation system. These lands, located in the Manistee, Ottawa, and Hiawatha National Forests, possess exceptional natural characteristics and great wilderness value which should be preserved as an enduring resource for the benefit and use of the people of Michigan and the United States.

In a State of over 36 million acres of land, less than three-tenths of 1 percent would be designated wilderness by the Michigan Wilderness Heritage Act of 1982. In every instance boundaries were drawn to exclude private inholdings to the maximum extent possible. Six of the areas contain no private inholdings at all. It should be noted that there is currently no congressionally mandated wilderness in the State.

The areas to be designated wilderness by this legislation contain many superb national treasures including lakeshores, wetlands, and some of the only remaining stands or virgin white pine in the State. They are Nordhouse Dunes Wilderness on the Lake Michigan shoreline; Sturgeon River Gorge Wilderness; Sylvania Wilderness, which is a popular area for canoeists; Carp River Wilderness; Horseshoe Bay Wilderness which stretches along several miles of undeveloped Lake Huron shoreline; Government Island Wilderness; Round Island Wilderness; Big Island Lake Wilderness; Delirium Wilderness; and the McCormick Wilderness. Among the many other fine features of these areas can be found bald eagle, rare and insect-eating plants, granite-rimmed lakes, wild rivers, and a waterfall. Not only do these areas provide excellent recreational opportunities for the naturalist and backpacker, but they also serve as an important resource for teachers and schoolchildren.

I want to stress that powerboat use is permitted in areas designated as wilderness where it has occurred in the past. The 1964 Wilderness Act also permits hunting, fishing, and trapping. Fire control activities and insect and disease control procedures are allowable as well.

The RARE II recommendation process has been completed in Michigan since 1979. It is imperative that the continued uncertainty over the status of these lands be resolved and those national forest system lands which are not designated wilderness made available for other appropriate use.

The inclusion of these areas of Michigan in the national wilderness preservation system will do more than simply preserve the wilderness character of the land. It will protect watersheds and wildlife habitat and provide a permanent resource for scientific research and primitive recreation. I urge my colleagues to support this legislation.●

## POLITICS AND THE PROFESSOR

### HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LONG of Maryland. Mr. Speaker, I would like to share with you a tribute to the late Malcolm Moos, a friend and colleague, as it appeared in the Baltimore Sun, February 12, 1982.

POLITICS AND THE PROFESSOR; A TRIBUTE TO MALCOLM MOOS

(By Stephen Hess)

WASHINGTON.—Malcolm Moos liked to tell about a time in the 1940 presidential campaign when he and Hubert Humphrey, young instructors at the University of Minnesota, agreed to a 30-minute debate on the campus radio station. They flipped a coin to see who would speak first. Mr. Humphrey won and spoke for 27 minutes.

"After that catastrophe at the hands of a demolition expert," Mr. Moos would then add, "I sought refuge in the calm waters of academic life for the next 18 years."

But when I first heard this story in the early 1950s, Mr. Moos was combining his duties as professor of political science at Johns Hopkins with a less spiritual life as city chairman of the Republican Party in Baltimore.

He saw nothing incongruous about a morning spent in research on what would be a major history of the Republican Party and an afternoon of dealing with a character called "Bad Check Shorty" in the fourth ward.

This blending of theory and practice tells much about the strengths and contributions of Mac Moos, my friend and mentor, who died last month at the age of 65.

Politics came naturally, perhaps genetically, to Mac. His father had managed 11 state campaigns in Minnesota and was rewarded with the postmastership of St. Paul.

I once asked Charley Moos why he never ran for elective office. He answered:

"Yes, I thought about running for mayor; I was pretty well known in that my name had been on every post box in the city for 13 years. But whenever I got the urge, I read the telephone directory. You know I only knew 5,000 people and I concluded that even if all of them voted for me I'd still lose."

(Perhaps Mac should have remembered this parental admonition when he ran unsuccessfully for a U.S. Senate nomination.)

Just as his father before him, Mac was an engaging teller of tales, tall and otherwise. He claimed that as a young man studying Alabama chain gangs for the Rockefeller Foundation he once addressed 1,000 convicts in Kilby Penitentiary: "As they pushed me onto the stage amidst the applause of spoons beating on tin plates, the warden announced that my topic was to be 'Attributes of Good Citizenship.'"

Moving back and forth between academics and politics—Mac took a leave of absence from Hopkins to become President Eisenhower's chief speechwriter—carries suspicions at both ends.

Some politicians derided him as an egghead. (Mr. Moos reminded them that "The Joy of Cooking" instructs, "Treat eggs gently. They like this consideration and will respond.")

Some academics, on the other hand, assumed that political life corrupts scholarship. (Mr. Moos replied that firsthand experience made him a better teacher and researcher.)

"The difficulty with so many of our eggheads," Mr. Moos told the Gridiron Club in 1958, "is that they believe the way to salvation is to nonpartisanize the political parties. . . . The basic indictment here is that (they) like the purity of the issues, but they aren't too fond of God's agent for carrying them out—namely people. These eggheads must come to realize that politics is both issues and people—and that the people who resolve the issues are called politicians—and that our parties are the working instruments that connect two."

By his example, Malcolm Charles Moos—scholar, teacher, a president of the University of Minnesota, and political participant—helped to bridge the gap between the intellectuals and the rest of society.

Along with a small group of other professors of his generation, Mr. Moos moved the academy closer to the community. This is a legacy worth recalling.●

## NAZI WAR CRIMINALS LIVING IN THE UNITED STATES

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, March 2, 1982*

● Mr. LEHMAN. Mr. Speaker, I would like to take this opportunity to stress to my colleagues the importance of our continuing to take a leadership role in insuring that our Government brings to justice Nazi war criminals who have sought refuge in the United States. The Congress is responsible for enacting legislation to deport Nazi war criminals from the United States and to prevent their entry into this country as immigrants.

It was due to congressional efforts that the special unit within the Department of Justice, the Office of Special Investigations, was established.

We have come a long way since 1974, when former Congresswoman Eliza-

beth Holtzman launched an investigation to uncover our Government's failure to investigate widespread allegations that Nazi war criminals were living in the United States. Public attention was brought to the fact that our country is still a haven for some Nazi war criminals who fraudulently entered the United States after the Second World War. Many came from the countries of Eastern Europe, lied about their war activities to immigration officials, and eventually obtained U.S. citizenship.

For nearly 30 years, there had been no interest on the part of Justice Department officials to investigate and prosecute the alleged war criminals who had been recognized by their victims to be some of Hitler's infamous henchmen. It is an unfortunate part of post-World War II history that not one single denaturalization case was brought by our Government against a Nazi war criminal living in the United States.

As a result of the efforts of Liz Holtzman and the House Judiciary Subcommittee on Immigration, and the strong support of a number of committed colleagues whose bipartisan support has since grown in the House and Senate, a special unit—the Office of Special Investigations—was established in the Criminal Division at the Department of Justice. Its sole job is to investigate and prosecute alleged Nazi war criminals. It has a staff of 50, including lawyers, investigators, historians, and paralegals, and a modest annual budget. Twenty-six cases are currently in the courts, and another 221 are under investigation. I will include a synopsis of the cases now in litigation, prepared by the OSI, at the conclusion of this statement.

During the years when the Immigration and Naturalization Service had responsibility for bringing former Nazi war criminals to trial, the INS was negligent in failing to investigate charges of alleged Nazi war criminals in the United States. Despite credible allegations, for 25 years the INS made no serious effort to pursue the investigation of these charges. It failed to interview available witnesses, many of whom are no longer living, refused to pursue leads brought to its attention, and made no effort to upgrade or centralize the investigation to enable prompt prosecution in a professional manner.

The Immigration Service's failure to investigate in the United States was matched by its refusal to locate evidence in foreign countries. INS did not check the main war crimes documents center in Berlin; it did not even contact the State of Israel. It refused to seek evidence from the Eastern European countries where most of the war crimes had been committed.

Against this background, it was not surprising that since World War II, not one person had been deported from the United States for Nazi war crime activities. The one exception to INS total inaction was the case of Hermine Braunsteiner Ryan, a former concentration camp guard living in Queens, who, in 1973, consented to denaturalization and was extradited to West Germany to stand trial for war crimes.

Since the establishment of the Office of Special Investigations within the Department of Justice in 1977, cases worthy of investigation were finally pursued and, despite the time lapse, much progress has been made. Last year, the unit, which has been upgraded and transferred to the Criminal Division, won its denaturalization case against Feodor Fedorenko, a case involving an alleged Nazi war criminal who, the Justice Department charged, served as an armed guard at the infamous Treblinka concentration camp where he beat and shot Jewish prisoners. This case is illustrative of how far the U.S. Government has come in its investigations, which is further evidenced by the 1980 appearance of former U.S. Attorney General Benjamin Civiletti before the Supreme Court on behalf of the Government against Fedorenko.

Valerian Trifa, now living in Detroit, is charged with being a leader of the Fascist Iron Guard in Romania. Denaturalized in 1981 for entering the United States in 1950 and concealing the fact that he advocated the killing of Jews and Masons and participated in activities resulting in the murder of Jews and destruction of property, Trifa's deportation hearings have been requested by OSI.

Andrija Artukovic of Long Beach, Calif., was the Interior Minister of the Nazi puppet state of Croatia in Yugoslavia. In that position, he was responsible for many of that country's domestic policies, which allegedly included sending hundreds of thousands of Jews, Serbs, and Gypsies to slave labor and death camps. He was ordered deported and is now awaiting disposition of his appeal.

Success in these cases is illustrative of the important progress resulting from congressional attention and criticism of our Government's failure to seek evidence from foreign sources. When, in 1976, the INS finally sent a team of investigators to Israel, the evidence brought back provided the basis for filing eight denaturalization and deportation cases. One can only speculate how many more cases could have been brought had this been done 5, 10, or 20 years previously. And finally, since 1978, Justice Department investigators have been able to travel to the Soviet Union and Eastern Europe to speak with Government officials and gather evidence. Several countries, such as Poland, have even permitted U.S. prosecutors access to Government archives. All this has led to a substantial increase in the flow of documentary evidence from these countries and to the development of innovative techniques to make available eyewitness testimony for use in trials in this country. For example, although the Soviet Union has thus far been reluctant to permit witnesses to come to the United States, officials there have allowed U.S. prosecutors to videotape witnesses, with defense attorneys present, for use in proceedings in this country. Statements taken in this manner were used for the first time in the trial of alleged Nazi war criminal Wolodymir Osidach in Philadelphia.

OPERATION AND FUNDING OF OSI

Because the Office of Special Investigations had no separate funding or autonomy from INS, the unit was, from the beginning plagued with funding, staffing, and bureaucratic problems. The House Immigration Subcommittee, under the able leadership of Elizabeth Holtzman, discovered that less than $250,000 of the over $2 million specifically authorized by Congress for the war criminal investigation was spent, despite the Justice Department's own Office of Legal Counsel's conclusion that INS was legally obligated to make the full amount available. Delays in hiring personnel were encountered while cases in litigation were increasing.

It became necessary for Congress to insure that the unit's operation and funding were protected. When, in 1979, the Justice Department agreed with congressional requests to upgrade the Nazi unit, the Justice Department testified in hearings that it would set aside the full authorized funding for the unit's operation, raise its staff to 50, earmark its funding, and transfer the unit from the Immigration Service to the Criminal Division within Justice.

Subsequently, the Lehman-Holtzman amendment raised to $2.3 million the amount appropriated for Nazi investigations and prosecution. Our amendment was passed unanimously by the House and signed into law. Now that OSI is an autonomous part of the Criminal Division, we, in Congress, must remain vigilant that the unit's previous experiences are not repeated. The OSI must continue to receive an earmarked authorization to insure that it receives the full funding that Congress approves.

BIPARTISAN SUPPORT FOR OSI

Bipartisan support for bringing Nazi war criminals in the United States to justice has never been stronger. When the Reagan administration took office, 102 of my colleagues joined me in writing to President Reagan urging his strong support of this effort. The Senate, too, wrote to the President to request his commitment to the unit's continued funding and operation.

Copies of both letters are included at the end of this statement for my colleagues' information.

I am happy to note that the administration's budget justification for the Department of Justice's 1983 operation increases to $2.7 million the funding level for OSI. Recent successes of the unit's cases in litigation justify this modest increase. Continued earmarking will insure that this progress is not impeded.

CONCLUSION

Some would argue that, because over 30 years have elapsed since the end of World War II, we should forget the atrocities that occurred so long ago. They argue that the criminals are too old, incompetent, or ill to be punished or that their ability to live anonymously in the United States washes away the past. To yield to these arguments would be to pronounce social acceptance of genocide, brutality, and human indignity. A simple examination of the record, of even some of the allegations in the denaturalization and deportation cases now pending against these people, begs for justice. The denaturalization and deportation of Nazi war criminals is modest punishment in contrast to the gravity of the crimes committed.

Our law, Public Law 95-549, gives direct authority to the Justice Department to act against all those who persecuted others under the Nazi government of Germany or its allies—to deport post-1953 entrants and to bar from our shores those who wish to immigrate or visit. The bill also facilitates efforts to deport alleged war criminals like Artukovic, who, although under an order of deportation, have avoided expulsion by claiming they would be politically persecuted if returned to their native country. The law instructs the State Department to deny visas for visits by former Nazi war criminals, like Wolfgang Boetticher, who was recently invited by Columbia University to participate in a Mendelsohn-Schumann Conference to be held in April. Some problems still exist with State Department compliance in implementing certain aspects of the law.

Passage of this legislation was an important achievement. Prior to its enactment, there was simply no bar to the entry of individuals who had engaged in persecution under the Nazis who wished to come to the United States after 1953. The Displaced Persons Act, which expired in 1953, did contain such a prohibition. It is ironic that before this legislation, our immigration laws prohibited the entry of everyone from polygamists to marihuana smokers, but opened the doors to Nazi war criminals.

Regardless of whether these crimes were committed yesterday or 30 years ago, if Nazi war criminals have sought refuge in the United States, we have a moral and legal obligation to banish them from our country.

I ask for your continued support in this effort for justice.

Copies of the letters to President Reagan and a Justice Department summary of all Nazi war criminal cases now in litigation follow:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, D.C., April 10, 1981.*

Hon. WILLIAM FRENCH SMITH,
*Attorney General, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C.*

DEAR MR. ATTORNEY GENERAL: Approximately two years ago, there was a public outcry over the fact that ex-Nazis were living in this country, often in violation of immigration law and regulations, and the U.S. Government seemed to be doing nothing about it. Numerous Congressional hearings on this matter resulted in the creation of an Office of Special Investigations in the Criminal Division of the Justice Department. Equally important, the unit was provided by Congress with a meaningful budget of approximately $2.3 million for Fiscal Year 1980, specifically earmarked in the Appropriations Bill for that purpose; for Fiscal Year 1982, the budget was originally intended to be $2.6 million.

The Office of Special Investigations has become a very active unit, with numerous cases in litigation and many others in the investigational stage. Many of the administrative and other problems that the program had encountered have been successfully addressed. Nevertheless, we have learned that it is intended to cut that budget to $2.4 million, and the staff from 50 to 45. We consider this cut unwise. The job of ferreting out former Nazis, though obviously time-limited, is indisputably an important and as yet incomplete one; the Supreme Court's recent decision in the *Fedorenko* case is a reminder of how vital this enterprise is. Now that it has finally been given serious attention, it would be unfortunate if that effort were derailed by inappropriate priorities and any false notions of economy.

If we can be of any assistance in this matter, please let us know.

Sincerely,

STROM THURMOND.
JOSEPH R. BIDEN, Jr.
EDWARD M. KENNEDY.
HOWARD M. METZENBAUM.
ARLEN SPECTER.
HOWELL HEFLIN.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, D.C., February 6, 1981.*

The PRESIDENT,
*The White House,*
*1600 Pennsylvania Avenue NW.,*
*Washington, D.C.*

DEAR MR. PRESIDENT: We are writing to you on an issue of deep personal concern to many of us in Congress and to millions of Americans throughout the country—the presence of Nazi war criminals in the United States. After a sordid thirty-five year history of inaction, indifference, and, in some instances, outright obstruction, our government has finally begun an aggressive effort to investigate and prosecute those individuals who allegedly were involved in atrocities under the Nazis and who subsequently found a haven in America. We strongly urge you to support this effort and personally to commit your Administration to do all that is necessary to assure that these criminals are finally brought to justice.

As you may be aware, a special unit—the Office of Special Investigations—has been established in the Criminal Division at the Department of Justice. Its sole job is to initiate proceedings to denaturalize and deport suspected war criminals. This office, directed by an extremely competent and dedicated attorney, Allan Ryan, and staffed with lawyers, investigators, and historians, is responsible for overseeing the 18 cases now in the courts and the 260 others presently under investigation. Because of the ages of suspects and witnesses, and the extremely complex evidentiary and logistical problems involved in these cases, it is essential that prosecutions be brought expeditiously and professionally. Under Mr. Ryan's stewardship, the office has operated in this manner and the results have been demonstrable.

Only a comparatively small sum, on the order of $3 million, is required to continue the work of the Office of Special Investigations. We are confident that such an amount will be authorized and appropriated by the Congress, as it has consistently and unanimously done in the past. We urge you to include a proposal for the necessary funds in your budget and specifically to earmark the money for the unit. It is a small price to pay for reaffirming our nation's commitment at Nuremberg that none of those who participated in Nazi atrocities should escape being called to account. It will also serve as a warning that civilized nations will never again tolerate such base inhumanity.

We would also urge you to make certain that Attorney General Smith demonstrates the same commitment to seeing this task successfully concluded as his predecessor, Ben Civiletti, did during his tenure. In addition to supporting sufficient funding and staffing for the Nazi unit, Mr. Civiletti took the time to meet with the highest judicial officials of the Soviet Union and other governments, to request cooperation in providing witnesses and evidence in these cases. He also successfully argued the government's case against one of the Nazi war criminals in the Supreme Court, the only personal appearance he made before the Court while he was Attorney General. These actions were of immeasurable importance in demonstrating to the courts, foreign governments, and others the priority our government now attaches to efforts to rid this country of those war criminals who have found sanctuary here.

Similarly, we would ask that you instruct the Department of State, the intelligence agencies, and the FBI to give their full cooperation and assistance to the Office of Special Investigations in fulfilling its task. Because of the critical importance of the cooperation of foreign governments in providing witnesses and documentary evidence in these cases, it is absolutely essential that the State Department, in particular, play a vigorous role in support of any Justice Department requests.

Mr. President, we are certain that you share with us a sense of the importance of this effort. Clearly, our government must not revert to the intolerable situation of years past, when it seemed to be condoning by inaction the horrors of the Holocaust. We must, in the limited time remaining, make clear to the world that the United

States has not forgotten this unparalleled tragedy.

Sincerely,

William Lehman, Glenn M. Anderson, Wendell Bailey, Anthony C. Beilenson, Jonathan B. Bingham, David Bonior, William M. Brodhead, Tony L. Coelho, Julian C. Dixon, Thomas J. Downey, Don Edwards, Vic Fazio, Harold E. Ford, Edwin B. Forsythe, Bill Frenzel. Hamilton Fish, Jr., Les AuCoin, Robin L. Beard, Tom Bevill, James J. Blanchard, Don Bonker, Shirley Chisholm, Ronald V. Dellums, Charles F. Dougherty, Roy Dyson, Dante B. Fascell, James J. Florio, William D. Ford, Barney Frank, Martin Frost.

Tony P. Hall, Benjamin Gilman, Albert Gore, Jr., Harold C. Hollenbeck, William J. Hughes, Dale E. Kildee, John LeBoutillier, Marc L. Marks, Matthew F. McHugh, Anthony Toby Moffett, Claude Pepper, Joel Pritchard, Henry S. Reuss, Robert A. Roe.

Samuel Gejdenson, Dan Glickman, S. William Green, Frank Horton, Jack F. Kemp, John J. LaFalce, Tom Lantos, Jim Mattox, Barbara Mikulski, James L. Oberstar, J. J. Pickle, Charles B. Rangel, Frederick W. Richmond, Benjamin S. Rosenthal.

Martin Olav Sabo, Charles E. Schumer, Bill Emerson, Bruce F. Vento, Henry Waxman, Timothy E. Wirth, George C. Wortley, Sidney R. Yates, Gus Yatron, Cardiss Collins, Leon E. Panetta, Stephen J. Solarz, Bob Shamansky, Peter A. Peyser.

James H. Scheuer, John F. Seiberling, Gerry E. Studds, Harold Washington, Theodore S. Weiss, Howard Wolpe, Ron Wyden, Elliott H. Levitas, Norman Y. Mineta, John Conyers, Jr., Ron de Lugo, Richard L. Ottinger, Romano L. Mazzoli, Ken Kramer.

Claudine Schneider, William H. Gray III, Wyche Fowler, Jr., Lindy Boggs, Bob Traxler, Robert K. Dornan, Phillip Burton, William J. Coyne, Matthew J. Rinaldo, Nicholas Mavroules, Gary A. Lee, Buddy Roemer, David R. Obey, Les Aspin, Mary Rose Oakar, Henry B. Gonzalez, Michael D. Barnes, Joseph P. Addabbo.

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(Office of Special Investigations, U.S. Department of Justice, Allan A. Ryan, Jr., Director)

DIGEST OF CASES IN LITIGATION

December 24, 1981

I. DENATURALIZATION CASES

*1. Linnas, Karl*

*Case Pending:* U.S. Court of Appeals for the Second Circuit; Docket No. 81-6165. Judgement in favor of OSI, January, 1982.

*Date Filed:* November 29, 1979.

*Date and Place of Birth:* August 6, 1919, Tartu, Estonia.

*Entry Date:* August 17, 1951, under the Displaced Persons Act of 1948, as amended.

*Immigration Status:* Natualized February 5, 1960 by the Supreme Court of New York at Suffolk County. Ordered denaturalized by U.S. District Court, E.D.N.Y., on July 1981.

*Summary of Allegation:* Defendant commanded or was a member of the security forces of a concentration camp at Tartu, Estonia from 1941 to 1943, where he supervised and participated in the physical abuse and execution of civilian prisoners. He misrepresented his activities during this period when applying for entry to the United States and later when applying for naturalization as a United States citizen.

*Progress to Date:* Depositions were taken in Estonia in March-April 1981. Trial was held in Westbury, Long Island before the U.S. District Court for the Eastern District of New York, in June 1981 (Civil Action No. 79 C 2966). On July 30, 1981, the court entered judgment in favor of OSI, and ordered that defendant's citizenship be revoked. The court found that defendant had taken an active part in atrocities committed against men, women, and children at the concentration camp at Tartu, and had subsequently procured his citizenship both illegally and by willful misrepresentation of material facts. On July 31, 1981, defendant filed a notice of appeal with the Second Circuit Court of Appeals. Both parties have since filed appellate briefs, and oral argument has been tentatively scheduled by the Court for the week of January 4, 1982, in Manhattan.

*2. Koziy, Bohdan*

*Case Pending:* U.S. District Court, S.D.Fla.; Civil Action No. 79-6640-CIV-JCP.

*Date Filed:* October 20, 1979.

*Date and Place of Birth:* February 23, 1923, Pukasiwci, Ukraine.

*Entry Date:* December 17, 1949, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized February 9, 1956 by the Supreme Court, State of New York, at Utica.

*Summary of Allegation:* During the period 1942-1944, defendant served as a Ukrainian policeman stationed in Lysiec, Ukraine, and participated in the murders of unarmed civilians. He concealed these facts when applying for entry and naturalization.

*Progress to Date:* Defendant and several witnesses have been disposed by OSI in the United States. Depositions of witnesses in Poland were taken in January 1981, and additional depositions were taken in the Soviet Union in March. Trial in this case commenced on September 15, 1981 and ended October 2. A decision may be announced by early 1982.

*3. Dercacz, Michael*

*Case Pending:* U.S. District Court, E.D.N.Y.; Case No. 80 Civ. 1854. Summary judgment granted in favor of OSI, February 8, 1982.

*Date Filed:* July 7, 1980.

*Date and Place of Birth:* February 22, 1909, Zheldec, Ukraine.

*Entry Date:* May 18, 1949, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized November 11, 1954 by the U.S. District Court, E.D.N.Y.

*Summary of Allegation:* From September 1941 through August 1943, defendant was a uniformed police officer in the Ukrainian Police Command in L'vov, Ukraine, and was stationed in Nazi-occupied Jaryzow-Nowy, Ukraine. Defendant actively participated in beatings and executions of unarmed Jewish civilians in Jaryzow-Nowy. He concealed and misrepresented these facts when applying for entry and for naturalization.

*Progress to Date:* Discovery in this case is now almost completed. Depositions of three survivor witnesses and the defendant have already been taken in the United States. Additional depositions were taken in the Soviet Union in March. OSI filed a motion for summary judgment on June 2, 1981, and the decision on this motion is now pending.

*4. Trucis, Arnolds*

*Case Pending:* U.S. District Court, E.D.Pa.; Civil Action No. 80-2321.

*Date Filed:* June 20, 1980.

*Date and Place of Birth:* September 20, 1909, Valka, Latvia.

*Entry Date:* April 27, 1951, under the Displaced Persons Act of 1948, as amended.

*Immigration History:* Naturalized December 18, 1956 by the U.S. District Court, E.D.Pa., at Philadelphia.

*Summary of Allegation:* Between July 1941 and November 1943, defendant was a member of the Latvian Auxiliary Security Police, an organization which participated in the persecution of Latvian Jews. Defendant personally assisted in such persecution by guarding and abusing civilians. Between approximately October 1943 and October 1944, defendant held the German *Schutzstaffel* (SS) rank of *Hauptscharfuhrer* (Master Sergeant), and served with the *Sicherheitspolizei* (Security Police), and the *Sicherheitsdienst* (or SD [Security Service of the SS]), which organizations participated in the persecution of Latvian Jews.

*Progress to Date:* Defendant's answer was filed on July 19, 1980. At his deposition on September 22, 1980, defendant refused to answer any questions, invoking a claimed privilege under the Fifth Amendment. On October 31, 1980, OSI filed a motion to compel defendant to answer questions, and oral argument on this motion was heard on February 5, 1981. On April 16, 1981, the Court ruled that defendant has a privilege under the Fifth Amendment to refuse to answer questions concerning his wartime activities. Defendant was ordered, however, to answer all questions concerning both his entry into the U.S. and his naturalization as an American citizen. Depositions of witnesses have been taken in the United States and, in May 1981, in Latvia. Defendant's deposition was taken in Philadelphia on July 1, 1981, at which time he answered questions regarding his immigration and naturalization but again refused to answer questions concerning his wartime activities. Depositions were taken in Latvia in November 1981. However, defendant died on December 6, 1981, before his case could be brought to trial. OSI expects that this case will be formally dismissed shortly.

*5. Demjanjuk, John*

*Case Pending*: U.S. Court of Appeals for the Sixth Circuit; Docket No. 81-3415.

*Date Filed*: August 25, 1977.

*Date and Place of Birth*: April 3, 1920, Dub Macharenzi, Ukraine.

*Entry Date*: February 9, 1952, under the Displaced Persons Act of 1948, as amended.

*Immigration Status*: Naturalized November 14, 1958 by the U.S. District Court, N.D. Ohio. Ordered denaturalized by U.S. District Court, N.D. Ohio, on June 23, 1981.

*Summary of Allegation*: Defendant, while employed as a uniformed guard with the German SS at the Nazi death camps at Sobibor and Treblinka, Poland in 1942 and 1943, assisted in the extermination of thousands of Jewish civilians. Defendant operated the gas chambers at Treblinka and abused and persecuted Jewish prisoners and laborers. Defendant misrepresented his background in applying for entry and naturalization.

*Progress to Date*: Trial was held in February and March of 1981 before the U.S. District Court for the Northern District of Ohio, in Cleveland (Civil Action No. C77-923). On June 23, 1981, the Court entered judgment for OSI, revoking defendant's United States citizenship on the grounds that it had been procured both illegally and by willful misrepresentation of material facts. The Court found that defendant,

when applying for entry and for naturalization, had failed to disclose his wartime service under the German SS at both the SS Training Camp at Trawniki, Poland and the Treblinka death camp. The Court specifically concluded that the six eyewitness identifications of defendant as a notorious guard who operated the gas chambers at Treblinka were reliable. On July 6, 1981, defendant filed a motion with the trial court requesting that he be granted a new trial. Also on July 6, he filed a notice of appeal of the denaturalization judgment with the U.S. Court of Appeals for the Sixth Circuit. On August 10, his new trial motion was denied by the District Court. Defendant's appellate brief has been filed with the Court of Appeals, and OSI's brief is due in January 1982.

*6. Kairys, Liudas*

*Case Pending*: U.S. District Court, N.D. Ill.; Civil Action No. 80-C-4302.

*Date Filed*: August 13, 1980.

*Date and Place of Birth:* December 24, 1920, Svilionys, Lithuania.

*Entry Date:* May 28, 1949, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized July 16, 1957 by the U.S. District Court, N.D.Ill.

*Summary of Allegation:* From 1942 to 1944, defendant served with the SS auxiliary guard units (SS *Wachmannschaft*) at Trawniki, Poland, the SS Comando Lublin, and the SS forced labor camp in Treblinka, Poland, where thousands of Jewish civilian prisoners were murdered by the SS *Wachmannschaft*. Defendant concealed these facts when applying for entry and for naturalization.

*Progress to Date:* Defendant's deposition was taken on April 7-9, 1981. Depositions were taken in Latvia, Germany, and Belgium in November 1981. The discovery process is continuing, and no trial date has yet been set.

*7. Kowalchuk, Sergei*

*Case Pending:* U.S. District Court, E.D.Pa.; Civil Action No. 77-118.

*Date Filed:* January 13, 1977.

*Date and Place of Birth:* March 15, 1920, Kremianec, Poland.

*Entry Date:* February 2, 1950, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized November 30, 1960 by the U.S. District Court, E.D.Pa.

*Summary of Allegations:* Defendant served as a member of the Nazi-controlled Ukrainian Police in Luboml, Poland, during the years 1941 and 1942. While serving in this capacity, defendant participated in the persecution of, and the commission of crimes or atrocities against, civilians. Defendant concealed these facts when applying for entry and for naturalization.

*Progress to Date:* Depositions of six witnesses were taken in Lutsk, U.S.S.R. in January 1981. Trial was held, in Philadelphia, on October 19-28 and December 11, 1981. Post-trial briefs are due on January 14, 1982, and oral argument on those briefs has been scheduled for January 18, 1982.

*8. Karklins, Talivaldis*

*Case Pending:* U.S. District Court, C.D.California, Civil Action No. CV 81 0460 LTL.

*Date Filed:* January 29, 1981.

*Date and Place of Birth:* June 16, 1914, at Madona, Latvia.

*Entry Date:* July 23, 1956, under the Refugee Relief Act of 1953.

*Immigration Status:* Naturalized January 25, 1963 by the U.S. District Court for the Central District of California.

*Summary of Allegation:* While serving as a member of the Madona (Latvia) District Police, in July and August, 1941, defendant assisted in the persecution and murder of unarmed Jewish civilians and committed crimes including murder and assault. From September 1, 1941 until the fall of 1942, defendant was the Commandant of the Madona Concentration Camp, which was operated under the command of the chief SS officer in Latvia. During defendant's tenure as Commandant of this camp, unarmed inmates of the camp were starved, beaten, tortured, murdered and otherwise brutalized by defendant and/or by persons acting under his direction and control. Defendant subsequently misrepresented and concealed his activities during this period when applying for entry to the United States and later when applying for naturalization as a United States citizen.

*Progress to Date:* Defendant's answer to OSI's complaint was filed on March 30, 1981. Defendant's deposition was taken on April 9, 1981, at which time he refused to answer any questions relating to his wartime activities or to his entry or naturalization. On June 19, 1981, OSI filed a motion to compel defendant to answer such questions. Oral argument on this motion was heard on August 4, 1981, at which time the judge ruled that defendant does not have to answer questions about his background or about his activities during World War II. Defendant was ordered, however, to answer questions relating to his immigration and naturalization. On August 19, 1981, OSI filed a motion to compel defendant to answer questions about his wartime activities; his answers would be sealed by the court. That motion was denied by a magistrate of the court on September 25. Depositions were taken in Latvia in November 1981. Defendant had previously filed a motion for a protective order seeking to prevent the taking of these depositions, on the grounds that fair and trustworthy proceedings could not be conducted in Latvia. That motion was denied on September 25, 1981.

*9. Schellong, Conrad*

*Case Pending*: U.S. District Court Northern District of Illinois; Civil Action No. 81 C 1478.

*Date Filed*: March 17, 1981.

*Date and Place of Birth*: February 7, 1910, Dresden, Germany.

*Entry Date*: February 23, 1957, under the Immigration and Nationality Act of 1952.

*Immigration Status*: Naturalized July 17, 1962 by U.S. District Court, N.D. Illinois.

*Summary of Allegation*: During the years 1934-1940, defendant served in various *Schutzstaffel* ("SS") guard companies at the Sachsenburg and Dachau concentration camps in Germany. Defendant served first as a guard and later as company commander of several of these units. Defendant's duties at both camps included the guarding of thousands of civilians interned there by the Nazis because of their race, religion, or political beliefs. At Dachau, where defendant rose to the rank of SS-*Hauptsturmführer* (Captain), he was responsible for the training of new SS recruits for concentration camp guard duty. When applying for entry into the United States, defendant concealed his activities during that period at Sachsenburg and Dachau. When later applying for naturalization, defendant falsely swore that he had never served in a concentration camp. Defendant also concealed the fact that, from June through November, 1932, he had been a member of the *Sturmabteilung* ("SA"), a paramilitary unit of the German Nazi Party.

*Progress to Date*: OSI filed its complaint on March 17, 1981. Defendant's answer was filed on May 14, and his deposition was taken on July 22-23, 1981. Depositions were taken in Germany in December 1981. The discovery process is continuing, and no trial date has yet been set.

*10. Palciauskas, Kazys*

*Case Pending:* U.S. District Court, Middle District of Florida; Civil Action No. 81-547 Civ. T-GC.

*Date Filed:* June 15, 1981.

*Date and Place of Birth:* September 11, 1907, Zagare, Siaulia, Lithuania.

*Entry Date:* April 19, 1949, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized November 11, 1954 by the U.S. District Court for the Northern District of Illinois.

*Summary of Allegation:* On June 25, 1941, German armed forces occupied Kaunas (Kovno), the capital city of Lithuania. From approximately that date until May 1, 1942, defendant served the Nazis as mayor of Kaunas. While serving in that position, defendant assisted the Nazis in persecuting civilians by ordering the internment of the Jewish population of Kaunas (more than 20,000 persons) in a ghetto under inhumane conditions. In his capacity as mayor, defendant promulgated orders regulating the lives and activities of the Jewish population. One such order required all Jews to wear a conspicuous yellow Star of David symbol on their chests. Defendant also was responsible for the confiscation of Jewish-owned homes and the collection and counting of Jewish-owned valuables. These homes and possessions were then turned over to the German authorities and to others. Defendant concealed and misrepresented these facts when applying for entry and for naturalization.

*Progress to Date:* OSI filed its complaint on June 15, 1981. Defendant filed his answer on September 24, 1981. Defendant was deposed on September 21, 1981, at which time he refused to answer any questions, pursuant to a claimed privilege under the Fifth Amendment. OSI has filed a motion to compel defendant to answer its questions. A decision on this motion is now pending with the Court. On September 28, 1981, the Court denied defendant's motion for a protective order against the taking of depositions in Lithuania; defendant had argued that fair depositions could not be taken there. The Court ordered that depositions may be scheduled for Lithuania for any time after November 15, 1981. The discovery process is continuing. The court has set a tentative trial date of July 7, 1982 in this case. A pre-trial conference will be held on June 8, 1982.

*11. Kungys, Juozas*

*Case Pending:* U.S. District Court for the District of New Jersey; Civil Action No. 81-2305.

*Date Filed:* July 22, 1981.

*Date and Place of Birth:* September 21, 1915, Reistru, Silales, Lithuania.

*Entry Date:* April 29, 1948, under the Immigration Act of 1924, as amended.

*Immigration Status:* Naturalized February 3, 1954 by the U.S. District Court for the District of New Jersey.

*Summary of Allegation:* Defendant, in association with the armed forces of Nazi Germany, participated in the killing of approximately one hundred civilians in or near the village of Babences (Babenus), Lithuania in July 1941. In July or August 1941, defendant led an armed group of men which forced the approximately 3,000 Jewish civilian in-

habitants of Kedainiai, Lithuania from their homes into a ghetto and then confiscated their property. Later that year, defendant organized, led, and participated in the killing of some 2,000 unarmed civilian Jewish men, women, and children at a mass grave site near Kedainiai. Defendant subsequently misrepresented and concealed his wartime activities and other material facts when applying for entry and for naturalization.

*Progress to Date:* Defendant's answer to OSI's complaint was filed on October 2, 1981. On October 14, 1981, the District Court denied defendant's motion for a protective order against the taking of depositions in Lithuania. A pre-trial conference has been scheduled for February 10, 1982. The Court has set a trial date of April 19, 1982 in this case.

*12. Juodis, Jurgis*

*Case Pending:* U.S. District Court for the Middle District of Florida; Civil Action No. 81-1013-CIV-T-H.

*Date Filed:* October 26, 1981.

*Date and Place of Birth:* October 22, 1911, Kebliskiai, Kaunas District, Lithuania.

*Entry Date:* July 21, 1949, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized February 8, 1955 by the U.S. District Court for the Eastern District of New York.

*Summary of Allegation:* During the Nazi occupation of Lithuania and Byelorussia, from 1941 until 1944, defendant served in the SS-controlled Lithuanian Auxiliary Police (*"Schutzmannschaft"*), in which he ultimately was commissioned as an *Oberleutnant.* While so serving, defendant personally commanded and participated in the assault, arrest, detention, and murder of unarmed Jews and other civilians. Defendant subsequently concealed and misrepresented his wartime activities when applying for entry to the United States and later when applying for naturalization as a United States citizen.

*Progress to Date:* Defendant's deposition is scheduled to be taken on January 4, 1982. His answer to OSI's complaint is due on December 28, 1981.

*13. Deutscher, Albert*

*Case Pending:* U.S. District Court for the Northern District of Illinois; Civil Action No. 81C-7043.

*Date Filed:* December 17, 1981.

*Date and Place of Birth:* August 18, 1920, Worms, Odessa District, Ukraine.

*Entry Date:* March 29, 1952, under the Displaced Persons Act of 1948, as amended.

*Immigration History:* Naturalized September 10, 1957 by the United States District Court for the Southern District of Illinois.

*Summary of Allegation:* On several occasions during January and February of 1942, defendant, while serving in the *Selbstschutz,* a Nazi-sponsored paramilitary organization, participated in the mass execution by shooting of hundreds of unarmed Jewish civilians, including women and children, near Worms, Odessa Region, Ukraine. Prior to execution, these civilians had been unloaded from the railroad freight cars within which they had been forcibly transported to the Worms area from Nazi-occupied territories in Eastern Europe and the Soviet Union. Defendant concealed and misrepresented all of these facts when applying for entry and for naturalization.

*Progress to Date:* On December 18, 1981, one day after OSI filed suit seeking the revocation of his United States citizenship, defendant was struck and killed by a train in Chicago. The coroner has ruled the death a suicide. OSI expects that this case will be formally dismissed shortly.

*14. Sokolov, Vladimir*

*Case Pending:* U.S. District Court, New Haven, Connecticut.

*Date Filed:* January 27, 1982.

*Summary of Allegation:* From 1942-44, alleged propagandist and deputy editor of Nazi propaganda that called for the elimination of all Jews in the area of Orel, Russia.

II. DEPORTATION CASES

*1. Maikovskis, Boleslavs*

*Case Pending:* Immigration Court, New York City; File No. A8 194 566.

*Date Filed:* December 20, 1976.

*Date and Place of Birth:* January 21, 1904, Mesteri, Rezekne District, Latvia.

*Entry Date:* December 22, 1951, under the Displaced Persons Act of 1948, as amended.

*Immigration Status:* Permanent resident.

*Summary of Allegation:* During World War II, defendant was employed as chief of the Second Police Precinct in Rezekne, Latvia. As chief of police, defendant participated in assaults upon and murders of Jewish and other Latvian civilians, including arrests and execution of the inhabitants of Audrini, Latvia, and the burning of the village. Defendant also ordered the rounding-up of all Gypsies in his police precinct.

*Progress to Date:* Deportation hearings were held in October and December of 1977. In April, 1978, the government sought an order from the Immigration Court permitting the taking of depositions of witnesses in Latvia. The Immigration Judge denied the government's motion, holding that fair depositions could not be taken in the U.S.S.R. OSI appealed this ruling to the Board of Immigration Appeals on March 19, 1980. Oral argument was held before the BIA on June 18, 1980. On January 9, 1981, the BIA reversed the Immigration Judge's decision, holding that depositions may be taken in Soviet territories, and that their admissibility, and the evidentiary weight to be given them, are to be determined by the Immigration Judge after they are taken. Although the Board noted that there were "problems inherent in [statements given in the Soviet Union]," it rejeced the Immigration Judge's view that such statements are necessarily untrustworthy. The Board also opined that, while Miakovskis' 1965 trial *in absentia* in Latvia "may have had certain political aspects to it," any political overtones were "minor," and the trial had been "overwhelmingly concerned with serious, specific, and non-political charges of heinous crimes against Jews and others."

The record was then remanded by the BIA to the Immigration Judge, who, on January 21, 1981, ordered that the depositions be taken. The depositions were taken in Latvia in May 1981. Hearings resumed at the Immigration Court in Manhattan on July 20, 1981. The government completed the presentation of its case during that week. The Court has reconvened three times since then to hear the remainder of defendant's case. The next hearings will be held on January 13-15, 1982. The Immigration Judge has set a tentative deadline of April 1, 1982 for the completion of defendant's case.

*2. Trifa, Valerian*

*Case Pending:* Immigration Court, Detroit, File No. A7 819 396 (deportation); U.S. Court of Appeals for the Sixth Circuit, Civil Action No. 80-1762 (denaturalization).

*Date Filed:* October 29, 1980 (deportation); May 16, 1975 (denaturalization).

*Date and Place of Birth:* June 28, 1914, Transylvania, Romania.

*Entry Date:* July 17, 1950, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized May 13, 1957 by the Circuit Court for Jackson County, Michigan, at Jackson. Denaturalized, purusant to a consent judgment, on September 3, 1980 by the United States District Court for the Eastern District of Michigan.

*Summary of Allegation:* During World War II, Archbishop Trifa served in Romania as a member of the fascist "Iron Guard" and as president of the National Union of Romanian Christian Students. Defendant also served as editor of the newspaper Libertatea, which openly identified itself with the Iron Guard and which advocated its anti-Semitic policies. From 1936 to 1941, defendant advocated the persecution of the Jews of Romania, and aligned the National Union of Romanian Christian Students with the policies and politics of the Iron Guard. On January 20, 1941, he issued a manifesto which advocated the replacement of all "Judah-like Masons" in the government and the establishment of an "Iron Guard" government; and in consequence, a rebellion took place in which hundreds of innocent civilians were killed. As an Iron Guard member, defendant was given sanctuary, protection, and care by the German SS in Romania and in Germany from January 1941 until August 1944.

*Progress to Date:* Defendant consented to denaturalization on September 3, 1980, and his certificate of naturalization was thereupon cancelled by the U.S. District Court for the Eastern District of Michigan. OSI's Order to Show Cause in defendant's deportation case was filed in Immigration Court on October 30, 1980.

Defendant filed an appeal of the consent judgment revoking his citizenship on October 31, 1980. On November 18, 1980, the Immigration Judge stayed proceedings in the deportation case until defendant's appeal of the consent judgment is decided.

Oral argument on defendant's appeal was heard on October 9, 1981, in Cincinnati. On November 3, 1981, the Sixth Circuit affirmed defendant's denaturalization, and on December 11, 1981, if also denied his petition for rehearing en banc. On December 15, 1981, OSI requested that the Immigration Court remove the previously-imposed stay on the commencement of deportation proceedings, and schedule hearings for March 1982. A decision on this request is now pending.

*3. Artukovic, Andrija*

*Case Pending:* U.S. Court of Appeals for the Ninth Circuit; Civil Action No. 81-7415.

*Date Filed:* May 9, 1951.

*Date and Place of Birth:* November 29, 1899, Klobuk, Herzegovina (now Yugoslavia).

*Entry Date:* July 16, 1948 as temporary visitor for pleasure, under the Immigration and Nationality Act of 1924, under the name Alois Anich.

*Immigration Status:* Overstayed visitor; File No. A7 095 961.

*Summary of Allegation:* Defendant was Minister of the Interior and Minister of Justice of the Nazi "Independent State of Croatia." In that capacity, he signed decrees authorizing executions and persecution and had direct complicity in massacres of hun-

dreds of thousands of Serbs, Jews, Gypsies, and others.

*Progress to Date:* An order of deportation has been outstanding against defendant since 1952. In 1953, the Board of Immigration Appeals upheld the order and specifically found that Artukovic was responsible for the mass persecution of Serbs, Jews, and others. In 1959, however, defendant was granted withholding of deportation, pursuant to § 243(h) of the Immigration and Nationality Act of 1952, 8 U.S.C. § 1253(h), upon a determination by an INS Special Inquiry Officer that defendant's deportation to Yugoslavia would subject him to "physical persecution." Subsequent attempts to obtain a travel document for deportation to some other country were unsuccessful, as was an INS effort to have the § 243(h) stay rescinded. Efforts made during the 1950's to secure Artukovic's extradition to Yugoslavia were similarly unsuccessful.

In 1978, Congress amended Section 243(h) to make it unavailable to those who had taken part in persecution under the Nazi regimes of Europe (P.L. 95-549, 92 Stat. 2065). In October 1979, OSI moved the Immigration Judge to reconsider the § 243(h) order withholding deportation. In January of 1980, this motion was denied for lack of jurisdiction, upon a finding by the Immigration Judge that jurisdiction was in the Board of Immigration Appeals. A motion was filed with the BIA on March 7, 1980, and argument was heard by the Board on July 23, 1980.

On July 1, 1981, the BIA decided in OSI's favor, revoking defendant's stay of deportation and ordering that he be deported. The board specifically ruled that defendant had offered no new evidence sufficient to call into question the soundness of the BIA's 1953 determination that Artukovic had been a leader in the Nazi puppet government in Croatia and that he had, in that capacity, participated in the persecution of Serbs, Jews, and others. Defendant was subsequently ordered to report to the Immigration and Naturalization Service in Los Angeles on July 8, 1981 in order to make final arrangements for his deportation. However, on July 1, 1981, defendant filed a petition with the U.S. Court of Appeals for the Ninth Circuit seeking a review of the decision of the Board of Immigration Appeals. Defendant's deportation is now automatically stayed, pursuant to 8 U.S.C. § 1105(a), pending disposition of his appeal. Both parties have filed appellate briefs, and oral argument on the appeal will be heard on January 4, 1982, in Los Angeles, California.

*4. Paskevicius, Mecis (a/k/a Mike Pasker)*

*Case Pending:* U.S. Immigration Court, Miami, Florida; File No. A7 497 596.

*Date Filed:* June 24, 1980 (deportation); January 17, 1981 (denaturalization).

*Date and Place of Birth:* September 26, 1901, Ukmerge, Lithuania.

*Entry Date:* June 15, 1950, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized September 4, 1962. Denaturalized, pursuant to a consent judgment, on August 23, 1979 by the United States District Court for the Central District of California.

*Summary of Allegation:* While serving in the Lithuanian Security Police from 1941 to 1944, defendant participated in the murder, beating, and extermination of Jews and other Lithuanian and Russian civilians.

*Progress to Date:* A complaint seeking the revocation of defendant's citizenship was filed by the government on January 17, 1977. Defendant subsequently consented to a judgment revoking his citizenship, and on August 23, 1979, the U.S. District Court for the Central District of California (Los Angeles) revoked the defendant's citizenship. In consenting to this judgment, defendant stipulated that he willfully and intentionally misrepresented facts to U.S. officials concerning his service as a member of the Lithuanian Security Police from 1941 to 1944.

On June 24, 1980, OSI filed an Order to Show Cause seeking defendant's deportation. The Immigration Judge ordered that physical and mental examinations of the defendant be conducted by a court-appointed doctor to determine if defendant is competent to stand trial. On December 16, 1980, the Court found that the defendant is mentally incompetent to stand trial. The Court based this determination on the report of the court-appointed doctor, on other submitted medical reports, and on the Court's own observations of the defendant on two occasions in court. The matter was thereupon adjourned *sine die.* However, defendant must submit to periodic mental and physical examinations to monitor his fitness to stand trial.

*5. Detlavs, Karlis*

*Case Pending:* Board of Immigration Appeals; File No. A7 925 159.

*Date Filed:* Order to Show Cause filed with the Immigration Court, Baltimore on October 1, 1978.

*Date and Place of Birth:* June 27, 1911, Latvia.

*Entry Date:* December 20, 1950, under the Displaced Persons Act of 1948, as amended.

*Immigration Status:* Permanent resident.

*Summary of Allegation:* While serving, from 1941 to 1943, as a member of the Latvian Auxiliary Security Police, defendant participated in assaults upon and murders of unarmed civilians, primarily Jews, in Latvia. From 1943, defendant served in the Latvian Legion. In 1950, when applying for admission to the U.S., defendant falsely swore that he had not advocated or assisted in the persecution of any person because of race, religion, or national origin.

*Progress to Date:* Deportation hearings were held during January and February, 1979. At these hearings, defendant admitted that he had concealed his service during the war in the Latvian Legion. Evidence of persecution was presented. In February 1980, the Immigration Judge ruled in favor of defendant, and refused to order his deportation. The court held that the government had failed to prove by clear, convincing, and unequivocal evidence that defendant had engaged in persecution. The court further found that defendant's admitted misrepresentations were not "material." OSI appealed this decision to the Board of Immigration Appeals, and the appeal was argued before the Board on August 4, 1980. On October 15, 1981, the BIA dismissed OSI's appeal, holding that the government had not established the materiality of defendant's misrepresentations by clear, convincing, and unequivocal evidence. Various possible courses of action are now under active consideration by OSI.

*6. Kaminskas, Bronius*

*Case Pending:* Immigration Court, Hartford, Connecticut; File No. A6 659 477.

*Date Filed:* October 13, 1976.

*Date and Place of Birth:* October 15, 1903, Kraziai, Lithuania.

*Entry Date:* May 7, 1947, under the Act of May 22, 1918, as amended.

*Immigration Status:* Resident alien.

*Summary of Allegation:* Defendant participated in the shooting of approximately 200 Jews in Lithuania in August, 1941, and in the selection of approximately 400 Jews for execution at another location in July or August of 1941.

*Progress to Date:* Defendant was examined by a government-appointed doctor, who concluded that defendant's ill health precluded his participation in deportation proceedings. The defense moved to dismiss the case on the grounds of defendant's incompetency, and OSI moved to adjourn indefinitely with periodic monitoring of defendant's condition. On January 30, 1981, OSI and the defendant stipulated that the case be adjourned *sine die,* and that the defendant would submit to periodic mental and physical examinations to determine his fitness to stand trial. On November 25, 1981, a government-appointed doctor again found Kaminskas unable to stand trial.

*7. Hazners, Vilis*

*Case Pending:* Board of Immigration Appeals, File No. A10 305 336.

*Date Filed:* Defendant was served with an Order to Show Cause on January 28, 1977.

*Date and Place of Birth:* July 23, 1905, Latvia.

*Entry Date:* August 23, 1956, under the Refugee Relief Act of 1953, as amended.

*Immigration Status:* Permanent resident.

*Summary of Allegation:* As an officer in the Latvian Self Defense Group and later the *Schutzmannschaft,* a police organization under German supervision and control, defendant directed and participated in the arrests and beatings of Jews, and in their internment in ghettos at Riga, Latvia.

*Progress to Date:* Deportation hearings commenced on October 25, 1977, and continued on various dates until their conclusion on May 18, 1979. On February 27, 1980, the Immigration Judge terminated the proceedings, concluding that the government's evidence was insufficient to prove defendant's deportability. OSI appealed this decision to the Board of Immigration Appeals on March 5, 1980, and oral argument before the Board was held on September 4, 1980. On July 15, 1981, the BIA dismissed OSI's appeal and motion to reopen, holding that the record did not contain clear, convincing, and unequivocal evidence of Hazners' deportability. Various possible courses of action are now under active consideration by OSI.

*Fedorenko, Feodor*

*Case Pending:* U.S. Immigration Court, Hartford, Connecticut, File No. A7 333 468.

*Date Filed:* March 5, 1981 (deportation); August 15, 1977 (denaturalization).

*Date and Place of Birth:* September 17, 1907, Sivasch, Ukraine.

*Entry Date:* November 5, 1949, under the Displaced Persons Act of 1948.

*Immigration Status:* Naturalized April 23, 1970 by the Superior Court of New Haven County, Connecticut. Citizenship ordered revoked by U.S. Supreme Court on January 21, 1981. Denaturalized by order of the U.S. District Court, S.D. Florida, Ft. Lauderdale Division, on March 11, 1981.

*Summary of Allegation:* Defendant misrepresented his wartime service as an armed guard at the Treblinka death camp in Poland during the years 1942-1943, and his commission there of atrocities against prisoners.

*Progress to date:* On August 15, 1977 the government filed suit seeking defendant's denaturalization. On July 25, 1978, the U.S. District Court for the Southern District of Florida entered judgment in favor of defendant, despite defendant's admitted serv-

ice at Treblinka and subsequent misrepresentation of his wartime activities.

On June 28, 1979, the U.S. Court of Appeals for the Fifth Circuit reversed. The Court of Appeals held that the District Court had applied an incorrect test of "materiality," and that applying the proper test to the evidence revealed that Fedorenko's misrepresentations had in fact been material. The Court of Appeals further ruled that the District Court erred as a matter of law in concluding that it had authority to enter a judgment for defendant based upon "equitable considerations." The Court of Appeals directed the District Court to cancel defendant's certificate of naturalization.

On February 29, 1980, the U.S. Supreme Court granted Fedorenko's petition for a writ of certiorari, and on October 15, 1980, the Attorney General argued the case for the United States. On January 21, 1981, the Supreme Court, in a 7-2 affirmance of the decision of the Court of Appeals, held that Fedorenko's citizenship had been illegally procured and therefore must now be revoked. The Court found it unnecessary to decide how the test of materiality applied by the Court of Appeals (the "Chaunt test") is to be correctly interpreted. Instead, the Court announced a new test for determining the materiality of misrepresentations on a visa application (the Court of Appeals had utilized the test applicable to misrepresentations on a petition for naturalization), and it ruled that under this test, Fedorenko's misrepresentations were clearly material. The Court also held that Section 2(b) of the Displaced Persons Act of 1948 (which prohibited the granting of visas to persons who "assisted the enemy in persecuting civil[ians]") required that visas be denied even to individuals who might have "involuntarily" assisted the Nazis in persecuting civilians; hence, the District Court's finding that Fedorenko acted involuntarily was irrelevant. Additionally, the Court ruled that once it is determined that an individual's citizenship was procured illegally or through misrepresentation, courts have no discretion to excuse the conduct and allow the defendant to retain his citizenship; hence, Fedorenko's good conduct subsequent to entering the United States was irrelevant.

The U.S. District Court for the Southern District of Florida subsequently revoked the order admitting Fedorenko to citizenship and it cancelled his certificate of naturalization.

On March 5, 1981, OSI commenced legal proceedings seeking Fedorenko's deportation from the United States. Deportation hearings were held on May 4-5 and July 7, 1981. Both OSI and defense counsel have completed presenting their respective cases, including submission of materials pertaining to defendant's application for discretionary relief from deportation under § 244 of the Immigration and Nationality Act, as amended. The decision is now pending with the Immigration Court at Hartford.

*9. Laipenieks, Edgars*

*Case Pending:* U.S. Immigration Court, San Diego, California; File No. A11 937 435.

*Date Filed:* June 2, 1981.

*Date and Place of Birth:* June 25, 1913, Rucava, Latvia.

*Entry Date:* March 9, 1960, under the Immigration and Nationality Act of 1952, as amended.

*Immigration Status:* Permanent resident (citizen of Chile).

*Summary of Allegation:* Between July 1941 and August 1943, during which time Latvia was under the occupation and control of Nazi Germany, defendant voluntarily served in the Nazi-affiliated Latvian security police. While assigned to duty at the Riga Prefecture and at the Riga Central Prison in Riga, Latvia, defendant participated in the persecution of civilians because of their race, religion, national origin, or political opinion; such conduct included participation in the beating and killing of unarmed inmates. Defendant was arrested in 1946 by French military authorities in Austria in connection with these activities. He concealed and misrepresented all of the above facts when applying for entry into the United States.

*Progress to Date:* On June 2, 1981, OSI commenced legal proceedings seeking Laipenieks' deportation from the United States. On June 23, 1981, a preliminary hearing was held on OSI's order to show cause in Immigration Court in San Diego. At that hearing, defendant denied the government's allegations of immigration fraud and of participation in persecution. Depositions were taken in Latvia in November-December 1981. Deportation hearings are scheduled to begin on January 26, 1982, in San Diego.

*10. Lehmann, Alexander*

*Case Pending:* U.S. Immigration Court, Cleveland, Ohio; File No. All 218 851.

*Date Filed:* November 23, 1981.

*Date and Place of Birth:* July 21, 1919, Zaporozhe, Ukraine.

*Entry Date:* February 15, 1957, under the Refugee Relief Act of 1953.

*Immigration Status:* Permanent resident (citizen of Germany).

*Summary of Allegation:* From the fall of 1941 until October 1943, defendant, while serving as Deputy Chief of the First Section of the Ukrainian Police at Zaporozhe, Ukraine, personally ordered and assisted in the persecution and killing of hundreds of unarmed Jewish civilians in and around Zaporozhe. Defendant's wartime activities included his ordering, directing, and participating in the mass execution by rifle fire of between 300 and 350 Jewish men, women, and children in the spring of 1942 at a trench near the Baranov Stadium in Zaporozhe. Defendant concealed and misrepresented all of these facts when applying for entry into the United States.

*Progress to Date:* On November 23, 1981, OSI commenced legal proceedings seeking Lehmann's deportation from the United States. On December 9, 1981, a preliminary hearing was held in Immigration Court in Cleveland on OSI's order to show cause.

III. FINAL DENATURALIZATION JUDGMENT SECURED

*1. Von Bolschwing, Otto Albrecht Alfred*

*Case Filed:* U.S. District Court, Eastern District of California; Civil Action No. 81-308 MLS.

*Date Filed:* May 27, 1981.

*Date and Place of Birth:* October 15, 1909, Schoenbruck, Germany.

*Entry Date:* February 1954, under the Immigration and Nationality Act of 1952, as amended.

*Immigration Status:* Naturalized April 6, 1959 by the U.S. District Court, Southern District of New York. Denaturalized, pursuant to a consent judgment, on December 22, 1981 by the U.S. District Court for the Eastern District of California.

*Summary of Allegation:* When applying for naturalization, defendant concealed and willfully misrepresented his membership in the German Nazi Party and his role as an officer in the *Allgemeine SS* (where he ultimately rose to the rank of *Hauptsturmfuhrer)* and in the SD (the security service of the SS) from 1934 until at least 1941. While serving in the SS and SD, defendant devised and advocated specific proposals for executing the SD's program of persecution and forced emigration of Jews from areas under Nazi control. From at least 1937 until 1939, defendant served in the "Jewish Affairs" office of the SD (Office II 112), where he provided information and advice to officials of that office, including Adolf Eichmann, on Jewish organizations and on forced emigration of Jews. In 1940-41, defendant served as head of the SD in Romania, where he encouraged and aided the fascist "Iron Guard" movement in its anti-Semitic program of January 1941 and in other acts of persecution.

*Progress to Date:* On December 22, 1981, von Bolschwing voluntarily surrendered his United States citizenship, admitting that he had been a member of the Nazi Party, the SS, and the SD prior to and during World War II. Under the terms of a consent judgment entered on December 22 by the U.S. District Court for the Eastern District of California, von Bolschwing must submit to annual examinations by a court-appointed doctor. Pursuant to the consent judgment, the government has agreed to refrain from instituting deportation proceedings so long as, in the opinion of that doctor, the progressive neurological disease from which von Bolschwing now suffers persists.

*See also the case digests for:* Paskevicius, Mecis; Osidach, Wolodymir; and Fedorenko, Feodor.

IV. CASES NO LONGER ACTIVE

*1. Osidach, Wolodymir*

*Case Tried Before:* U.S. District Court, Eastern District of Pennsylvania; Civil Action No. 79-4212.

*Date Filed:* November 20, 1979.

*Date and Place of Birth:* July 12, 1904, Wetlina, Galicia, Poland.

*Entry Date:* July 29, 1949, under the Displaced Persons Act of 1948.

*Immigration History:* Naturalized August 7, 1963 by U.S. District Court, E.D.Pa. Citizenship ordered revoked by U.S. District Court, E.D. Pennsylvania, on March 17, 1981.

*Summary of Allegation:* When applying for entry into the United States and for naturalization, defendant concealed his wartime service as Commandant in the Ukrainian Police in Rawa-Ruska, Ukraine, and his involvement in the persecution and murder of unarmed Jewish civilians (specifically, his participation, directly and through subordinates, in the roundup and transport to extermination sites of Jewish civilians residing in Rawa-Ruska).

*Litigation History:* Trial was held in Philadelphia before the U.S. District Court for the Eastern District of Pennsylvania, in September and October of 1980. On March 17, 1981, the Court entered judgment for OSI and ordered that defendent's citizenship be revoked. The Court found that Osidach had taken an active part in persecution and thus had illegally procured his U.S. citizenship. On May 12, 1981, defendant filed a notice of appeal of the denaturalization order with the Third Circuit Court of Appeals (Docket No. 81-1956). However, defendent died on May 26, 1981, before that appeal could be heard. On July 6, 1981, OSI filed a motion requesting that defendant's appeal be dismissed on the grounds of mootness. On July 22, 1981, that motion was granted.●